PATTERNS OF POWER · THE PAPACY

# The Papacy and the Patrimony of St Peter

*The Complete Study · 754 — 1440 — 1870*

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with Claude (Anthropic) · 2026

*held as tested, not revealed*

*Held as tested, not revealed.*

A case study in the Patterns of Power series.
Primary sources quoted exactly; modern scholarship paraphrased and credited.
Contested figures given as ranges. Nothing reconstructed from memory.

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# Preface and Outline

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## The collaboration

This is a case study in the Patterns of Power series, applying the series' framework to the papacy as a temporal order — the Patrimony of St Peter and the States of the Church, from a Frankish king's anointing at Saint-Denis in 754 to a three-hour bombardment at the Porta Pia in 1870. The framework is a lens for reading how any order of power is founded, dressed and held: the floor of force beneath every order, the robe of doctrine laid over the floor to make the force cheap, the settlement that divides the spoils among the armed, the formation that installs a picture of the world in each new generation before it can be examined, the cost column in which each subject prices compliance, the seam where trusted information is held, the default by which an elite coordinates without instruction, and — running through all of it — position logic, the proposition that rulers in like positions converge on like solutions because a position poses a problem with only a few good answers.

The study was built the way the series is built, one module at a time. The author brought the framework, the direction and the judgement of the whole, and held the collaboration to its disciplines; Claude, Anthropic's model, did the research — verifying every load-bearing quotation, date and figure by web search against a source reproducing the primary text before any module was written — and produced the drafts, each presented and confirmed before the next was begun. The framework's concepts are the series'; the papal application, and the refinements it yielded, are the work of the collaboration.

The subject was chosen because it looked as though it would break the framework. Three of the framework's load-bearing assumptions are tested here to destruction: that settlements bind through heritable title, when this order was celibate by rule and nobody in it could have a son; that a robe is borrowed from a currency the audience already honours, when this order minted the currency; and that a founding document is load-bearing, when this order's was forged, publicly disproved in 1440, and the order ran another four hundred and thirty years. None of the three failed in the way expected, and what happened to each is stated in the twelfth module.

The vocabulary needed translating and the translations are made in the open. The framework was built largely on European colonial cases and still smells of them — metropole and colony, formation withheld, the colonial bend — and there is no colony in this study. What the vocabulary actually describes is general, and where a term does not fit, the study says so on the page rather than stretching it.

## The standing problem

Every study in this series has a source problem. This one has three.

**The first is that there is no disinterested witness to the founding, and both surviving accounts are winners.** The transactions of 750 to 756 are recorded in the *Annales regni Francorum*, which is the Carolingian court's record of the Carolingian court's achievements, compiled retrospectively by the beneficiaries and running about a year ahead of the standard dating in this stretch; and in the *Liber Pontificalis*, which is the papal chancery's account of the papacy's acquisitions, written by the men who received the keys. They agree, which is normally a comfort and is here a problem, because the method this series uses runs on the gap between what was said at the centre and what was done on the ground, and here there are two centres and no gap. The dispossessed party — the eastern emperor, whose province was given away without his consent — survives only in what the other two report him as having said, and then only in order to record that he was refused. The method needs a party who wrote things down and lost. This case does not supply one.

**The second is that the instruments are missing at exactly the points where they matter most.** The Promise of Quierzy of April 754, which is supposed to be the foundation of the papal temporal power, does not survive in any form and is known only from a letter written two decades later by a beneficiary asking for more. The *Clausula de unctione Pippini*, which is the principal source for the date, the place and the dynastic interdict at Saint-Denis, was argued in 1926 to be a forgery of about 880; it was defended immediately and has been generally accepted since, but the standard reference repertories still record its authenticity as not secure. A study whose middle centuries turn on one exposed forgery rests, at one of its founding scenes, on a text whose status has never been finally settled, and the coincidence is noted rather than smoothed.

**The third is arithmetical and it runs in both directions.** On this subject the confessional and anti-clerical traditions have been recycling bad figures since the sixteenth century, and the honest ranges are wide. Llorente's numbers for the Spanish Inquisition, which built the popular picture, were dismissed as arbitrary and exaggerated in 1906 by Henry Charles Lea, who devoted four hostile volumes to the

institution. The casualty figures for the Albigensian Crusade run from tens of thousands to a million and the upper end has no defensible basis. The demographic figures for the Thirty Years War have been revised downward by a third over the past century and the revision is still contested. Every figure in this study is given as a range where a range is what the evidence supports, and several are withheld entirely because no defensible number exists.

Against that, the compensating wealth was unusually good, because this subject's primary documents are mostly old enough to be out of copyright and important enough to have been translated by scholars whose work is also out of copyright. Christopher Coleman's 1922 edition of Valla's *Declamatio* carries the Latin and an English translation and is the spine of the third module. James Barmby's 1895 translation of Gregory the Great's *Register* in the *Nicene and Post-Nicene Fathers* is public domain, as is Ernest Henderson's 1896 *Select Historical Documents* and J. Waterworth's 1848 Trent. Duchesne's *Liber Pontificalis*, the *Annales regni Francorum*, Justinian's *Codex*, the Pragmatic Sanction of 554 and Luther's ninety-five theses are all available in the original Latin. Between them they let the study quote a bishop of Rome describing himself as the emperor's paymaster, a Frankish annalist recording the conveyance of a province to a dead apostle, a pope declaring appeals to a council execrable, and a friar asking why the pope does not empty purgatory out of charity.

## The disciplines

Five rules govern every module.

**Quotation.** Public-domain primary sources are quoted exactly, in the original where the original matters, at the length the argument needs — because in an order held together by legal fictions the precise wording is the evidence and not its decoration. Modern copyrighted scholarship is paraphrased briefly and credited.

**No fabrication.** No quotation, date, attribution or figure is invented or reconstructed from memory. What cannot be verified against a source reproducing the primary text is dropped or flagged, never guessed. Two of the most famous sentences in this study's period are hearsay recorded decades later by distant or hostile parties — the couplet attributed to Tetzel about the coin in the box, which Luther reports and which appears nowhere in Tetzel's surviving sermons, and the line attributed to Arnaud Amalric at Béziers, which Caesarius of Heisterbach records some thirty years after the event. Neither is used as evidence anywhere in this study.

**Gravity without partisanship.** Suffering is held with gravity and the study refuses both flattery and demonisation. Legibility is not pardon: to explain an order's logic, even to credit its competence, is never to excuse it. Legibility is also not indictment. On

this subject the discipline cuts hard in both directions, because the popular picture of the medieval church is wrong in one direction about the inquisitions and wrong in the other about the tithe, and correcting either is routinely mistaken for advocacy.

**Contribution.** Every module returns a refinement to the framework in its closing section rather than merely applying the framework to the case, and the findings compound across the modules rather than being announced fresh each time.

**Weakest evidence on the face of the module.** Each part closes with a note separating exact primary quotation from paraphrased scholarship, giving contested figures as ranges, and naming its own weak links — including, and especially, where they would embarrass the argument.

Four particular cautions were held throughout. **The Cathar record is the persecutors' record**, and a substantial body of recent scholarship has questioned how far the older picture of an organised dualist counter-church corresponds to anything that existed; the study makes no claim about Cathar doctrine. **The claim that the medieval church banned the Bible is false as usually stated** — no universal prohibition of vernacular scripture was ever issued by any pope or council — and the seventh module's argument depends on that fact rather than surviving in spite of it. **The *Syllabus of Errors* is described in the narrowest defensible terms**, as a list of condemned propositions and not a positive programme. And **the doctrine is not adjudicated anywhere.** The framework is not built for that and cannot do it.

That last caution deserves expansion, because it is the trap this subject sets. This order's robe is unusually good: genuinely beautiful, argued by first-rate minds across a millennium, and believed by hundreds of millions of people who were not fools. The temptation is to compensate for that by writing coldly, as though the quality of a doctrine were evidence against its holders' sincerity. That is the same error as flattery. The series' discipline holds that a built thing which became real is more genuine and more durable than a lie, and that naming the build is not debunking it — and this is the case where that discipline is hardest to keep and matters most.

## Where this study is weakest

A reader looking for the soft ground should go to these five places, and they are collected here rather than left to be discovered.

**The recruitment finding, which is the study's largest claim, is a synthesis and not a result.** The proposition that celibacy functions as a removal of the ceiling on selection — that an order which must recruit every member from other people's children is bounded by the population it forms rather than by its own fertility — follows from the material in the second and fourth modules, but the inference is the

collaboration's and is not reported in the historical literature. It has not been tested against the other non-heritable elites in the record: the Mamluks, the janissaries, the eunuch administrations. That is where this study should be attacked first.

**The closed loop is likewise a construction.** The claim that this order uniquely combined the office of title-conferral with the formation apparatus, and that the resulting collision with temporal power was structural rather than accidental, is built on the series' own prior findings about anchors and interpreters. It would be defeated by a single counter-example from a case not yet run.

**The account of the sixteenth-century fracture explains the wrong half.** The eighth module explains which rulers broke with Rome by reference to whether they had already obtained control of ecclesiastical appointments — France and Spain had, England and the German princes had not. That correlation is real, is noted for France in the reference literature, and has genuine exceptions in Poland and Scotland. But it explains the distribution of the outcome and not its origin. Luther was not a prince and received no abbey. The origin belongs to the modules on formation and extraction, and the study does not join the two halves as tightly as it should.

**Two central readings are inferences from chronology rather than statements found in any source.** That the *Constitutum Constantini* was survivable in 1440 because prescription had already superseded it; and that the definitions of 1870 and the temporal sovereignty were substitutes, with the order's weight moving from one to the other in a single quarter. Both are the collaboration's constructions. No fifteenth-century source says the first and no participant in the First Vatican Council recorded anything like the second.

**And the study's selection is itself an argument it does not make.** An eleven-hundred-year account of this institution which treats its doctrine mainly as a variable in other people's compliance calculations has, by that selection, made a claim about proportion even while disclaiming any claim about truth. A reader inside the tradition may fairly say so. The only defence is the one the twelfth module offers: that this is a study of an order and not of a faith, that the boundary is stated rather than smuggled, and that the study's jurisdiction ends at the parish door.

## What this case added to the framework

The case confirmed a great deal the framework had banked and returned findings of its own. The largest is stated last, because it is the one the whole study was built to reach.

That a coordinating position can be **conferred rather than captured** — legislated onto another body's apparatus by a sovereign who can no longer perform the function

— so that it arrives as an obligation and a bill before it arrives as an opportunity, and the order that receives it will for a long time describe itself in the language of duty, accurately.

That a floor can be **loaned**: supplied by a party who takes nothing and goes home, producing an order that must re-borrow its force from a lender under no continuing obligation, spends its political energy on correspondence rather than armies, and cannot read its own risk from its own conditions — because a loaned floor is never eroded, only withdrawn, and remains present and effective until the morning it marches away.

That absolution is a **consideration unlike any other on the list**: unrepossessable, costless to issue, and worth nothing to anybody outside the belief, which is precisely why no rival with treasure can outbid it and precisely why the order that pays in it can never be forced to stop.

That an order which cannot make heirs internally can make them externally — the **exported settlement** — by granting heritable interests in its own property to bodies that can inherit while retaining the reversion, which is the term that keeps the grantee's title derivative and is therefore the whole of why the grantee defends the grantor.

That a prohibition on heirs relocates rather than extinguishes the demand for them, and the relocation eventually acquires an office: find the office an order created to house the thing it forbade, and you have found where its settlement is really being made.

That in any forged instrument the **date of composition and the date of first deployment are two separate pieces of evidence** answering two different questions — the first reporting what was missing from the title when it was drawn, the second reporting when somebody finally probed the gap. On this case they are three centuries apart, and reading either as the other produces the standard and wrong account of the Donation of Constantine.

That warrants are addressed either to the ruled or to rival claimants and decay by different routes, the second being destructible by a competent reader in an afternoon; that a **stacked robe is antifragile against document criticism**, because textual attack necessarily finds the layer most exposed to textual attack, which is the weakest; and that prescription eats the founding instrument, so that there is a window during which a refutation is lethal and after which it is archaeology.

That **formation is withheld in proportion to the heritability of the settlement it would dilute**, which explains the colonial withholding without recourse to intention; and that a **warrant is drawn on formation**, its value manufactured downstream in childhood and flowing back to the office that issues it.

That coercion is the residual — what is left after benefit, belief and the absence of exit have done their work — and that **belief is not an item in that ledger but the exchange rate at which every other item is priced**, which is why an identical sanction was devastating in 1208 and inert in 1606 while nothing about the sanction changed.

That **exit need not be geographic**, and the decisive form is a competitor arriving in the same territory; so that universality is the strongest position an order can hold and the most catastrophic thing to lose, there being no partial version of being the only one available.

That a sanction which must be executed by people the target can reach is not a sanction against the target — which is what two centuries of quarrelling over the appointment of bishops was actually about.

That the Torah supplied a complete **fiscal constitution for a landless priesthood**, in which the tithe is given to the Levites *because* they have no inheritance and the verse says so with a *therefore*; that the warrant for this order's extraction is therefore Hebrew and its machinery Roman; and that a universal levy by an unarmed institution requires an armed party to enact it, which is a permanent liability, because what a statute creates a statute can revise.

That the limiting case of extraction against the future is a flow **only the seller can describe and no buyer can verify**, where the absence of a possible complainant removes the last discipline on the quantity that can be issued.

That a second authority speaking for God does not add a claimant but voids the currency, so that a monopoly of interpretation is a monopoly of title-issuance in different clothes; that the most efficient answer to a doctrine you cannot refute is to **license** it, since when two movements holding identical doctrine meet opposite fates the variable is never the doctrine; and that absorption has a term, its cost being an internal constituency for the thing absorbed.

That constitutional constraint requires a constraining body **permanently excluded** from the office it constrains — which is why three centuries of conclave capitulations were repudiated by the men who swore them, and why the fifteenth century's written constitution for the church was abolished by a former conciliarist eighteen months after he reached the office it was drafted to bind.

That **extraction and the default are in direct tension, and the tension scales with the endowment**: an order accumulating property under a title only it can issue is building, in the same act, the prize for its own elite's defection.

That protections are artefacts of jurisdictional competition rather than of benevolence; that liberties travel as portable instruments and the instrument outlives every faction that carries it; that a protection granted under a credible expectation of

losing power survives the lifting of that expectation only if it acquires an independent constituency in the interval; and that **closing a forum converts litigation into secession.**

That where an order binds by belief rather than force its violence is **back-loaded** — nothing spent while the belief holds, everything at once when it divides — and that the metabolic note falls due on the dissolution rather than on the arrangement.

That the deadliest persecution occurs where central jurisdiction is weakest rather than where it is strongest, because a distant tribunal with rules of evidence and an appeal restrains a local one that has neither.

And, largest of all, the finding the study was built to reach, which inverts the question it was given. Every hereditary order in the record is bounded by its own fertility. **An order whose officers cannot reproduce must recruit every member, in every generation, from other people's children, and is therefore bounded not by its own loins but by the size of the population it forms.** It can select on aptitude from an entire civilisation, in every generation, because there is no incumbent lineage whose expectations have to be respected — which is also why it could afford to form everybody, having nothing to dilute. Celibacy did not create a durability problem that this order solved. It removed a ceiling, and the durability was the consequence. The order that could have no sons had, in every generation, the pick of everybody's.

## The arc

A landscape opening and twelve modules, each with a framework function and its own title.

**Landscape — I Am Their Paymaster.** Italy after Justinian: a reconquest more destructive than the invasion it reversed; a clause of 554 legislating the choice of provincial governors onto the bishops; an empire that abandoned Rome to hold Perugia; and a bishop describing himself, in a letter to an empress, by the title of an imperial army paymaster.

**1 — The Floor of Force. And Handed It Over to Saint Peter.** An army that belonged to somebody else, took nothing, and went home; a province taken from the party that had taken it from its owner; a letter written in the name of a dead apostle; twenty-two sets of keys laid on a tomb; and a consideration stated on oath that no rival could counterfeit.

**2 — The Settlement. Three Lives and a Reversion.** A tenure that ended at death and transmitted nothing, and why that was the problem rather than the answer; long leases that manufactured heirs outside an order that could have none; nephews, and the

curial office invented in 1566 to house them; and a prior title drawn up for an objection nobody was yet making.

**3 — The Robe. A Canonry in the Lateran.** A legend, a forgery, a Frankish collection and a marginal addition to the canon law; a scholar who took it apart in 1440 and addressed the reigning pope by name while doing it; the two arguments of his that were not philological; and the benefice he held in the palace the document purported to convey.

**4 — Formation. All the Faithful of Both Sexes.** A king who begged a foreign power for the return of a book because his people would not obey him without it; a calendar that deleted ten days and split a continent along confessional lines while nobody disputed the arithmetic; an annual interview with every adult in Christendom; and why an order with no heirs could afford to educate everybody's children.

**5 — The Cost Column. The Ass and Not the Horse.** A canon of 989 that named the animal a poor man actually owned; a compulsory tenth with no exemption for poverty; an arrangement with no exit because it was everywhere; and how a man with no soldiers made other men's kingdoms cheap or expensive to govern.

**6 — Extraction. They Shall Have No Inheritance.** Where the tithe came from and which king made it compulsory; three verses in Genesis that supplied the tenth, the priest-king and a priesthood without descent; a mining monopoly enforced by excommunication; and the bull of 1476 that made the dead a market.

**7 — Information and Suppression. To Restrain Petulant Spirits.** Why a second voice speaking for God would have unsettled every title in Europe; an order whose most dangerous book was its own; two men who preached the same doctrine thirty years apart and met opposite fates; a pope declaring it heretical to say that Christ was poor; and a decree reaching to interpretations never intended to be published.

**8 — Elite Coordination and the Default. Insofar as It Is Not Contrary to Church Law.** A chain that ran from Rome to every deed in Europe; an electorate that could not bind the office because any of them might hold it; a capitulation repudiated seven months after it was sworn by a man who had written his own escape into his signature; and the moment the endowment became the prize for defecting.

**9 — Plurality or Foreclosure. An Appeal to Something Which Is Nowhere.** Where protections actually came from; a rule about co-guardians that became the constitutional maxim of European consent; a written constitution for the church, unpublished for twenty-seven years and abolished by one of its own authors; and the liberty destroyed by the statutes remembered as expanding liberty.

**10 — Change and Collapse. Nineteen Dead at the Porta Pia.** A definition of infallibility sixty-four days before the state; a garrison recalled to fight a war four

hundred miles away; a lender defeated by a party with no interest in the case; nineteen men killed to establish a legal fact; and why losing the territory was the saving of the office.

**11 — The Grim Accounting. Two Hundred at White Mountain.** Two hundred killed in a battle and fourteen thousand by typhus in the same army in the same year; the numbers both traditions get wrong; the killing that happened where the jurisdiction was weakest; and a formation still running long after the order that built it is gone.

**12 — Convergence and Divergence. Other People's Children.** Where this order meets the corpus and where it stands alone; the single variable that produced four consequences in four directions; the answer to the question the study was given, which turned out to be its inverse; and the strongest case against reading it this way at all, stated at full weight and answered.

## A note on sources.

This front matter is descriptive and makes no primary-source claims of its own; every factual assertion about the case is established, with its sources and its flags, in the module where it appears.

The public-domain corpus quoted across the study is: the *Registrum epistularum* of Gregory the Great in the Latin of the Monumenta edition and in James Barmby's translation of 1895; the *Pragmatica sanctio pro petitione Vigilii* of 554; the *Annales regni Francorum*; the *Liber Pontificalis* in Duchesne; the *Constitutum Constantini* and Lorenzo Valla's *Declamatio* in Christopher Coleman's edition of 1922; the sentence of Gregory VII against Henry IV in Ernest Henderson's translation of 1896; *Execrabilis*; the decrees of the Council of Constance; the fourth session of the Council of Trent in J. Waterworth's translation of 1848; Justinian's *Codex*; Luther's ninety-five theses; the Authorised Version; and the letter of Prince Kasa of Ethiopia to Earl Granville in E. A. Wallis Budge's edition of 1922.

Beyond that the study's debts are to the tradition of scholarship on the Donation running from Gerhard Laehr through Horst Fuhrmann, without which the third module's central finding would not exist; to Contreras and Henningsen, whose audit of the Spanish tribunals' own returns made the eleventh module's arithmetic possible; and to the reference literature — the *Catholic Encyclopedia* of 1913 for what it records and, in several places, for what it gets wrong, and the *Cambridge History of the Papacy* and *Cambridge History of the Bible* for the corrections.

LANDSCAPE

# I Am Their Paymaster

*The ground before 754 — Italy after Justinian, the vacancy the empire left in a city it could no longer garrison, and the corporate estate that was already doing the governing*

## A case with no colony in it

Every study in this collection opens by reconstructing the ground a power was built on: who held organised violence, how the wealth was divided, and what the population had been formed to believe was rightful, so that what follows can be read as an act performed against a real prior arrangement rather than upon empty scenery. Where the case is a conquest answering to a distant capital, that reconstruction has to be done twice — once for the country taken and once for the country that took it — because a governor who answers to an audience his subjects will never see is running two operations at once, force in one place and a story about the force in another.

Neither shape fits here, and saying so at the outset is the first finding rather than an apology for the case. There is no metropole and no colony in this study. The vocabulary this collection carries was worked out largely on European conquests and still smells of them, and it will have to be translated where it does not fit; that translation will be made in the open each time it is needed. What the vocabulary is actually about is general — how any hierarchy is founded by force, converted into heritable title, legitimated, formed, paid for, defended by the self-interest of its own members, and eventually changed — and the doubling of the landscape has a general form too. It is not a fact about distance. It is a fact about a gap between where authority is asserted and where it is exercised, and that gap is very wide indeed in sixth-century Italy without anybody having to cross an ocean.

What the ground held instead of a metropole and a colony was four parties, and the arithmetic between them is the whole of what this landscape has to establish.

There was an emperor at Constantinople who held the only title anybody in Italy regarded as lawful, and who by the last quarter of the sixth century could not defend the peninsula and had stopped seriously trying. There were the Lombards, who from 568 held the capacity — the men, the horses, the willingness — and no title the Roman population would accept, being at that stage Arian or pagan and in any case strangers. There was the bishop of Rome, who held neither title to rule nor any means of

compelling anyone, and who held instead the largest landed estate in the western Mediterranean, a staff of trained administrators, a correspondence network reaching from Northumbria to Alexandria, and the grain. And there were the Franks, north of the Alps, who at this date held a great deal of capacity, no claim of any kind on Italy, no presence there, and no interest in acquiring either.

The fourth party is the one that eventually supplies the army, and the point of naming all four at the outset is that on the evidence of this landscape nothing whatever predicts it. The order this study examines was founded by a floor its founders did not own, could not raise, and had at this date no reason to expect. What they had instead was an apparatus, and the apparatus was already governing.

## What was already there had been put there three times

Before anything is counted, one discipline has to be fixed, because it governs how every figure and every claim in this study should be read.

No ruler ever meets an aboriginal or timeless order. He meets somebody else's build that has had time to stop looking like one, and the Italy of 590 was the residue of at least three, each of which had fully taken.

The first was the Roman conquest of Italy itself, which by the sixth century lay nine hundred years back and was not experienced by anybody as a conquest at all. Roman law, the Roman calendar, the Latin language, the division of the peninsula into provinces and cities with magistrates: none of this presented itself to a farmer in Campania as an arrangement that had been made. It was the shape of the world, and the people who had been on that ground before the legions had left no continuous memory that anyone could act on.

The second was Constantine's, and it is the one this study will return to constantly, because its instruments are the ones the order runs on. Between the rescript of 313 and the legislation of the decades after it, the Christian church was converted from a proscribed association into a property-holding corporation with imperial standing; by the end of the fourth century it held the state's confession; by the end of the sixth nobody in Rome experienced any of it as a policy that an emperor had adopted for reasons. A Roman in Gregory's city held Christianity as the ground the propositions stood on, not as a proposition. Two hundred and seventy years is enough.

The third was Gothic and had failed within living memory. Theodoric's Ostrogothic kingdom, from 493 to 526, had held Italy with a foreign army and an Arian confession while leaving the entire Roman civil administration in place and running, which is why the arrangement was tolerable and why it left so little behind when it was destroyed. And a fourth build was being laid down across the north of the

peninsula at the very moment this landscape closes, by the Lombards, who would take rather longer to become simply Italian than the Romans had taken to become simply the world, but who would get there.

Hold this without letting it slide, because the slide is the commonest failure of a study like this one. That an institution was built does not make it false, and it does not make the people inside it dupes. The opposite: a built thing that has become real is more durable and more genuinely held than any lie could be, because a lie must be maintained and a naturalised order need not. The Christianity of sixth-century Rome was authentically the Roman people's world. Naming its constructed origin is not debunking it, and the same rule will have to be applied with exactly equal force at the far end of this study, to an order that ran for eleven hundred years on a document that a scholar disproved in the middle of it.

## The reconquest, which was the worst thing that happened to Italy

The event that emptied the ground was not a barbarian invasion. It was the legitimate sovereign returning.

Justinian's war to recover Italy from the Goths ran from 535 to 554 and was fought across the whole peninsula for a generation. Rome changed hands repeatedly — besieged in 537 and 538, taken by Totila in 546, retaken, taken again in 549, and finally lost by the Goths in 552 — and the fighting was accompanied by famine and by the plague that reached Italy in the 540s and returned in waves for two centuries. The aqueducts that had watered the city were cut. The senatorial families that had survived Odoacer and Theodoric did not survive this.

The demographic figures are genuinely unknown and should be carried as unknown. Estimates for imperial Rome at its height run from half a million to something above a million, on methods — the built area against assumed densities, the size of the grain dole, dwelling counts — that disagree with one another by factors rather than percentages. Estimates for the city in the later sixth century run from about twenty-five thousand to perhaps ninety thousand. What can be said without a number is that a city built to be fed by an imperial grain fleet had lost the fleet, the fields, the water and most of the people, and that everything the bishop of Rome would shortly be doing follows from that fact.

The contemporary narrative of the war is Procopius, who was there, whose *Wars* is the indispensable source and whose *Secret History* is a bitter attack on the man who commissioned the *Wars*. His casualty and mortality figures are rhetorical and are not used here as figures. The structural claim does not need them: the peninsula was fought

over for nineteen years by two armies neither of which could feed itself from it, and the party that won took possession of a ruin.

## The clause

Then, having won, the emperor legislated. In August 554 — the day is given as the thirteenth or the fourteenth in different editions — Justinian issued to Narses and to the prefect Antiochus the constitution known as the *Pragmatica sanctio pro petitione Vigilii*, a set of twenty-seven chapters extending the imperial law to the recovered province, confirming the grants of the earlier Gothic rulers while voiding Totila's, restoring dispossessed proprietors, regulating weights and measures and the grain supply, and reorganising the administration of justice. It was issued, its own title says, at the petition of Vigilius, bishop of Rome — a man who had spent most of the previous decade in Constantinople under imperial pressure over a doctrinal question, and who died before he got home.

The twelfth chapter is the one this study needs, and it should be read in the original, because the wording is the point:

> *Provinciarum etiam iudices ab episcopis et primatibus uniuscuiusque regionis idoneos eligendos et sufficientes ad locorum administrationem ex ipsis videlicet iubemus fieri provinciis, quas administraturi sunt, sine suffragio...*
> *We further order that the governors of the provinces be chosen by the bishops and the leading men of each region — fit men, and competent for the administration of their localities — and be drawn from the very provinces they are to administer, without payment for the office...*

The chapter goes on to provide that a governor found to have injured the taxpayers, to have exacted more than the fixed tribute, or to have cheated them by short measures or light coin, shall make it good out of his own property; and it extends the same liability backwards over the officials of the deposed Gothic regime.

Two things about this are worth holding, and they point in opposite directions. The first is that it is not a usurpation. Nobody in this clause is reaching for anything. An emperor who has just spent nineteen years and an army recovering a province, and who cannot staff it with men he trusts because the men who would have staffed it are dead or discredited or in Constantinople, hands the selection of his own provincial governors to the one body still standing on the ground with a network, a payroll and a reason to care whether the province is administered well. The bishops did not take this. They were given it, and given it as work.

The second is that it is a legal instrument doing exactly what such instruments do in every case this collection has examined. It converts a fact into a right. The bishops of Italian cities had in practice been arbitrating disputes, ransoming captives, feeding the poor and standing between their populations and whoever was in arms outside the walls for a century and more; the clause makes that practice into a competence conferred by statute, from which point it is not a favour anybody did but an office somebody holds. And it does so in a document whose stated occasion is a request from the bishop of Rome.

How long the clause was actually operated is not known, and the honest answer is probably not long. The empire had fourteen years.

## Fourteen years

In 568 the Lombards crossed into Italy under Alboin. Pavia held out for three years and fell in 572, becoming their capital; Alboin was murdered in about the same year, his successor Cleph within two more, and for roughly a decade thereafter the Lombards had no king at all, power resting with some thirty or thirty-five dukes operating on their own account — which meant that the conquest continued without anyone being able to negotiate an end to it. Imperial Italy contracted to Ravenna and its hinterland, a corridor across the peninsula to Rome, and a scatter of coastal enclaves. In 584 the presence of an *exarch* is attested at Ravenna for the first time: a single officer holding both the civil and the military authority, which is what a province is reorganised into when it has become a permanent front.

The corridor was the whole of the imperial position, and the arithmetic of holding it is the reason this study exists. Rome sat at one end of it, was expensive, was not the capital, and was of no military value whatever. Ravenna sat at the other end, was the seat of government, and was defensible from the sea. Everything between them was contestable. An exarch with a fixed and insufficient force who is asked which places to hold will not hold the one that costs most and yields least, and this is not a moral failure but the arithmetic of his position; the interesting thing is that the man on the losing end of the arithmetic wrote it down.

## The apparatus in the Lateran

Gregory was elected in the early months of 590, after his predecessor Pelagius II died on 7 February in the plague that followed the Tiber flood of the previous November, and was consecrated on 3 September. The gap of six months is conventionally explained by the wait for the emperor's ratification, which by this period was requested

through the exarch at Ravenna and confirmed from Constantinople before a new bishop of Rome could be consecrated; the arrangement lasted until Constantine IV released Benedict II from it in 684. Some accounts hold that Gregory and his immediate predecessor were consecrated without waiting. The disagreement is not resolvable here and is recorded rather than settled. What is not in dispute is that the requirement existed, that the man in the chair regarded himself as subject to it, and that this remained true for the whole of the century.

What he inherited with the chair was not a government. It was an estate, and it should be described as a machine.

The lands of the Roman church — the *patrimonium beati Petri* — lay in Sicily, around Rome, in Campania and Calabria, in Sardinia and Corsica, along the Adriatic and in Dalmatia, in Gaul, and in North Africa. Individual farms, *fundi*, were grouped into *massae*; the *massae* were grouped into patrimonies each roughly the size of a province; the cultivators, *coloni*, were tied to the soil and personally free. Each patrimony was run by a *rector*, usually a deacon or subdeacon of the Roman church, with *defensores* and *actionarii* under him, keeping accounts and remitting revenue and answering a stream of letters from the Lateran about weights, leases, the treatment of tenants, the rate at which grain should be bought, and whether a particular agent was using false measures. Older reference works give the total area at between thirteen hundred and eighteen hundred square miles and the income in modern currency; those figures come from a work of 1913, rest on assumptions that are not stated, and are reported here only to be set aside. What can be evidenced is not the total but the operation, and the operation is legible in the letters.

One will serve. Writing to Peter, subdeacon and rector of the Sicilian patrimony, Gregory instructs him to buy grain in that year's harvest to the value of fifty pounds of gold and store it in Sicily where it will not rot, so that ships may be sent in February to carry it to Rome — this being over and above the shipment that comes as a matter of course in September or October — and to do it, he adds, *without annoyance to any husbandman of the Church*, because the local crop has failed and, *unless by God's help grain be collected from Sicily, there is a serious prospect of famine*. He tells him to keep guard over the ships that have always been assigned to the use of the church. And then, on the question of leasing church land to petitioners, he reminds him of the terms on which he holds his post: *remembering that you have before the most sacred body of the blessed apostle Peter received power over his patrimony.*

Every element of an administration is in that letter. A commodity forecast, a purchasing budget in bullion, a storage instruction, a shipping schedule, a fleet, a standing supply contract, a rule restraining the collectors, and a commission taken at a

shrine. The estate was feeding a city that the state could no longer feed, out of provinces the state still held, using ships the state did not control, on the authority of a dead apostle.

Alongside the grain ran everything a government does when there is no other government. Gregory's correspondence has him buying captives out of Lombard hands, complaining that the praetorian prefect of Italy has failed to supply the customary ration to the deaconries at Naples, urging the wealthy to endow relief, appointing and correcting bishops, arranging truces, and paying soldiers. In 592 he came to terms directly with Ariulf, duke of Spoleto, without imperial authority — a peace made, as he later put it, *without any cost to the republic* — for which the exarch repudiated him and the emperor called him a fool.

## The word he used for himself

On 1 June 595 Gregory wrote to the empress Constantina. Most of the letter is about a title he objected to at Constantinople, and can wait. Near the end he stops arguing and states his position:

> *Viginti autem iam et septem annos ducimus, quod in hac urbe inter Langobardorum gladios vivimus. Quibus quam multa ab hac ecclesia cotidianis diebus erogantur, ut inter eos vivere possimus, suggerenda non sunt. Sed breviter indico, quia, sicut in Ravennae partibus dominorum pietas apud primi exercitus Italiae saccellarium habet, qui causis supervenientibus cotidianas expensas faciat, ita et in hac urbe in causis talibus eorum saccellarius ego sum. Et tamen haec ecclesia, quae uno eodemque tempore clericis, monasteriis, pauperibus, populo atque insuper Langobardis tam multa indesinenter expendit...*
> *We have now been living twenty-seven years in this city among the swords of the Lombards. How much is paid out to them by this church every day, so that we may live among them, is not to be told. But I state it briefly: just as in the parts about Ravenna the piety of our lords keeps a paymaster for the chief army of Italy, who meets the daily expenses as occasions arise, so in this city, in such matters, I am their paymaster. And yet this church, which at one and the same time spends so much without ceasing upon clerics, monasteries, the poor, the people, and on top of that the Lombards...*

The word is *saccellarius*, and it is not a figure of speech. It is the name of an actual office of the imperial fisc, the officer who held the purse from which an army in the field was paid. Gregory is not saying that he feels burdened. He is saying that the function performed at Ravenna by a salaried imperial official is performed at Rome by

him, out of the church's money, on the emperor's behalf, and that nobody has arranged this or acknowledged it. His arithmetic is exact and worth following: twenty-seven years back from 595 is 568. He dates his own position from the Lombard crossing, and he is right to.

The second letter to set beside it is the one he wrote to the emperor Maurice, after Maurice had described him — using the word *simple* — as having been taken in by Ariulf. It survives only in translation for present purposes, but the translation is old enough to quote and the sequence in it is the landscape entire:

> *For, if I had not been silly, I should by no means have come to endure what I suffer in this place among the swords of the Lombards.*
> *First, that the peace which without any cost to the republic I had made with the Lombards who were in Tuscany was withdrawn from me. Then, the peace having been broken, the soldiers were removed from the Roman city. And some indeed were slain by the enemy, but others were placed at Narnii and Perusium; and Rome was left, that Perusium might be held.*
> *After this a still heavier blow was the arrival of Agilulph, so that I saw with my own eyes Romans tied by the neck with ropes like dogs, to be taken to France for sale.*

*And Rome was left, that Perusium might be held.* An empire holding a corridor with an insufficient garrison decided which end of it was worth a battalion, and the sentence is the answer, written by the man in the abandoned end. He then defends the two imperial officers who had done the actual work of the siege — Gregory the prefect and Castorius the *magister militum*, who, he says, endured most severe toil in watching and guarding the city and were rewarded with the emperor's displeasure — which is a detail worth marking, because it corrects a picture that is often drawn of this moment. The imperial civil and military establishment had not left Rome. It was present, it was competent, and it had nothing to spend. What the bishop supplied was not the officers. It was the money.

And he closes by telling his sovereign that he relies more on the mercy of Jesus at his coming than on the justice of the emperor's piety — which is as near as a subject of the eastern Roman empire could come to insolence without ceasing to be a subject, and which is very carefully still inside the line.

That line is the thing to hold. Nothing in this correspondence claims a right to govern. Gregory petitions, complains, obeys, submits his election for ratification, describes himself by the title of a clerk in the imperial treasury, and addresses the man who has just insulted him as *most pious lord*. He is performing the functions of a state and asserting the prerogatives of none. The gap between what he was doing and what

he claimed to be doing is the largest single fact in this landscape, and it runs in the opposite direction from the gap this collection usually measures.

## Whose the property was

One question remains, and it is the one the whole study will turn on.

Gregory had no son, could have none lawfully, and would not have been permitted to leave the estate to one if he had. Every mechanism this collection has found for making a division of wealth durable runs through inheritance: land granted, held, transmitted, defended by an heir who would lose by the arrangement's collapse. Strike inheritance out and the apparatus ought to dissolve at the first death.

It did not, and the reason is that the wealth was never his. It belonged to a legal person that did not die.

The instrument is Constantinian and is older than anything else in this landscape. The rescript of 313, as Lactantius reports its terms, ordered the restoration of Christian property described as belonging *ad ius corporis eorum, id est ecclesiarum, non hominum singulorum* — to the right of their body, that is, of the churches, and not of individual men. Eight years later, on 3 July 321, a constitution preserved in the Theodosian Code gave every person liberty to leave at death whatever property he wished to the most holy and venerable council of the Catholic church, and provided that such wills should not be void. From that point the church in each city was a corporation in Roman law: capable of taking by will, of holding in its own name, of suing, and of never dying. The bishop administered; he did not own. What he handed on was not an estate but a post.

This matters more than it first appears, and it needs stating precisely, because it is easy to mistake for an answer to the study's whole question when it is only an answer to half of it.

It solves the problem of *holding*. An order whose officers cannot have heirs can nevertheless accumulate, because the accumulating entity is not any of them. Four centuries of legacies from dying Roman aristocrats, each of whom had a soul to think about and no confidence that his own family would still be there in a generation, had built by 590 the largest private landholding in the western Mediterranean without a single act of inheritance taking place inside it. The framework this collection carries already contains the general form of the point, arrived at from a case with no celibacy anywhere in it: what a settlement requires is not that positions be heritable but that they be *institutional* — that they exist independently of the man who confers them. Heritability is much the commonest way of achieving that. It is not the variable.

But it does not solve the problem of *binding*, and the distinction is the study's real subject. A corporation explains how the wealth survives the man. It does not explain

why anybody defends it. A settlement's whole function is to manufacture defenders — men who would be worse off if the arrangement fell and who therefore hold it up without being told to, every day, for their own reasons — and it is not obvious, on the evidence of this landscape, that a body of celibate administrators managing somebody else's perpetual estate generates any such person at all. The rectors and *defensores* in Sicily held posts they could lose and could not transmit. On the face of it they had the loyalty of employees, which is a real thing and a thin one, and thin loyalty has never yet held an order for eleven hundred years.

So the question this study exists to answer should be narrowed rather than assumed. It is not *how did an order with no heirs keep its property* — Roman corporate law disposed of that in 321, before there was any property worth speaking of. It is *how did an order with no heirs manufacture men who would defend the property as though it were theirs*, and go on manufacturing them for a millennium, across languages, kingdoms, and one complete rupture of the institution's own authority. Nothing in this landscape answers that. What the landscape establishes is that the question is the right one and that it was already live in 595, because the apparatus already existed and was already the only functioning government in the city.

## The two powers, already stated

One more text belongs here, because the vocabulary the whole conflict would be conducted in was minted a century before the ground emptied.

In 494 Gelasius, bishop of Rome, wrote to the emperor Anastasius in the course of a schism between Rome and Constantinople, and produced the sentence that would be quoted on every side of every argument about the relation of priests and kings for the next eight hundred years:

> *Duo sunt quippe, imperator auguste, quibus principaliter mundus hic regitur: auctoritas sacrata pontificum et regalis potestas.*
> *There are two, august emperor, by which this world is principally governed: the consecrated authority of pontiffs, and the royal power.*

He goes on to say that the burden of priests is the heavier, since they must render an account at the judgement even for kings. And then — this is the half that later curialists quoted less and that matters more for a landscape — he concedes the other side of it explicitly: in what pertains to the order of public discipline, the bishops themselves obey the emperor's laws, knowing that his rule has been conferred on him from above.

Two things follow. The first is that this is not an invention. It is a claim made in a currency the audience already honoured — the Christian emperorship that Constantine's successors had built and that Anastasius was very far from repudiating — and its force comes entirely from the fact that the emperor could not deny the premise without denying his own title. Nobody in this story ever mints legitimacy; they borrow it, and the sentence is a bid on a coin already in circulation.

The second is that the sentence was written by the bishop of a city the eastern emperor could not reach, in a dispute the emperor could not settle by force, at a moment when the imperial position in Italy was held by an Arian Gothic king. It is the doctrine of a party with no army, and it reads like one. What happens to it when the party acquires an army is the question the rest of this study will be occupied with.

## Reading the ground against the framework

Four things this landscape establishes, and one correction it forces.

**The founding order is not yet in view, and the position is.** The conventional opening date for this order is 754, when a Frankish king promised the bishop of Rome a territory that a Frankish army then took from the Lombards and handed over. That date will be tested in the module that follows, and this landscape has already made one thing about it doubtful. Whatever 754 founded, it did not found the apparatus. The estate, the rectors, the accounts, the shipping, the correspondence network, the corporate title and the working assumption in central Italy that the bishop of Rome was the man who dealt with the armed party outside the walls were all in place by 595 and most of them by 554. What arrives in 754 is a floor. The order is older than the floor by at least two centuries, which is an inversion of the usual sequence and should be flagged now rather than discovered later.

**Coordination was conferred here, not captured.** This collection's account of where hierarchy comes from runs in a fixed order: complexity forces people to trust specialists they cannot check; that forced trust builds coordinating positions; and coordination curdles into capture, because whoever occupies such a position is also best placed to notice that the surplus passing through it could pass toward him. The mechanism needs no villainy and it usually needs no invitation either. Here the first step of the capture is missing, and its absence is documented in a statute. The bishops of Italy did not reach for the civil administration. An emperor short of trustworthy men legislated a share of it onto them in 554 because his own selection machinery had failed, and the Lombards handed them the rest in 568 by making the imperial machinery unaffordable. The position arrived as a duty and as a bill before it arrived as an opportunity.

Call this **conferred coordination**, and note the diagnostic that comes with it, because it will be needed later and it cuts against the reflex this method is most prone to. An order that acquired its coordinating position this way will, for a long time, go on describing itself in the language of obligation rather than of right — and that description will be *accurate*, not a cover. Gregory calling himself the emperor's paymaster is not a modest fiction laid over an ambition. It is a job description. The ambition, when it comes, will have to be shown arriving; it cannot be read back into the man who was buying the grain.

**An apparatus can perform government while holding neither of the two things government is supposed to require.** The working proposition is that a durable arrangement is organised force with a believed story laid over it to make the force cheap, and that where the story is thin the force must be visible — surveillance being the tell of a belief that never took. Rome in 595 fits neither pole. The bishop had no coercive apparatus of any kind; there is nothing to see, and its absence is not evidence that his belief had taken, because he was not asking anybody to believe he ruled and nobody thought he did. Nor was the quiet a borrowed one inherited from a self-running predecessor, in the way a conqueror inherits his predecessor's silence with the tax rolls. The city was quiet because it was starving and nearly empty.

What held it, in place of force, was something this collection has not had to name before: **a landlord's title over other people's subsistence**. Grain is not a weapon and cannot be pointed at anyone, but a body that owns the fields, the granaries and the ships, in a city that cannot eat without them, occupies a position with the same effect as a garrison and none of the same costs — no pay, no discipline problem, no officers who might one day march on the palace. The refinement to carry forward is that the standing question — *whose belief is holding this floor up?* — has a prior question underneath it that this case forces: **is there a floor at all, or is the compliance being produced by an economic dependence that never had to be organised as violence?**

**And the study's question narrows.** Everything this method knows about durability runs through inheritance; strike it out and the apparatus should fail. But the strike had already been survived before the founding, by an instrument that was not designed for the purpose and predates the problem: the corporation in Roman law, which let a body of childless men accumulate for four centuries without one act of succession occurring inside it. That disposes of holding. It leaves binding entirely open, and binding is the harder half — because a settlement exists to manufacture people who defend the whole arrangement by defending their own place in it, and an employee is not obviously such a person. The three candidate mechanisms this study will test are therefore not candidates for *how the wealth survived*, which is answered,

but for *how the defenders were made*. This landscape supplies none of them. It supplies the certainty that they existed, since the thing lasted.

One last note, and it is the one that will be hardest to keep. This collection's studies of authorisation have converged on a finding that reads, on the face of it, like a prediction of disaster for the case now opening: that the soundness of a source of title is inversely related to its capacity to enforce, and that a source of title which acquires the means of enforcement converts itself into a claimant and forfeits the immunity that made it useful to anybody. The estate described in this landscape is the beginning of exactly that acquisition, three centuries before there is an army. The prediction is on the record. Whether it comes true, whether it comes true slowly enough to be invisible for a millennium, or whether this case refutes it, is not to be settled by the landscape and should not be smuggled into the modules as an expectation. It is the thing to watch.

## A note on sources.

Quoted exactly from public-domain primary texts: chapter XII of the *Pragmatica sanctio pro petitione Vigilii* of August 554, in the Latin as printed in Schöll and Kroll's edition of the *Novellae* and as independently transcribed from the manuscript witnesses, with a translation of my own; the *Registrum epistularum* of Gregory the Great, book V letter 39 in the numbering of Ewald and Hartmann's Monumenta edition, dated 1 June 595, quoted in the Latin with a translation of my own; and Gelasius I to the emperor Anastasius, 494, for the *Duo sunt* sentence, with a translation of my own.

Quoted in English only, from James Barmby's translation in the *Nicene and Post-Nicene Fathers*, second series, volume XII (1895), which is itself in the public domain: Gregory's letter to Peter the subdeacon on the Sicilian grain purchase, and his letter to the emperor Maurice on the withdrawal of the soldiers and the sale of Roman captives. Both are cited above by Barmby's numbering, which is that of the older Benedictine and Migne editions; the Monumenta numbering of the same letters differs, and a reader checking the Latin should expect that.

Three cautions on the quotations. The Latin of the *Duo sunt* sentence is transmitted with more than one word order — Thiel's edition reads *Duo sunt quippe, imperator auguste, quibus principaliter mundus hic regitur*, while the canonical collections are cited in the scholarly literature as reading *Duo quippe sunt quibus principaliter hic mundus regitur* — and I have printed the first while flagging the second; the sense is unaffected but the wording should not be treated as settled. The rescript of 313 as reported by Lactantius, and the constitution of 3 July 321 in the Theodosian Code at XVI.2.4, are given here in the wording reproduced in standard reference works; I have

not verified either against a critical edition and say so rather than implying otherwise. And the date of the Pragmatic Sanction is given as 13 August in some accounts and 14 August in others.

Paraphrased and credited to modern scholarship or to reference works: the chronology of the Gothic War and of the Lombard invasion; the first attestation of an exarch at Ravenna in 584 and the sequence of exarchs; the structure of the papal patrimonies into *massae* and *fundi* under rectors and *defensores*; the procedure by which papal elections were notified to the exarch and confirmed from Constantinople, and its remission to Benedict II in 684; and Gregory's dealings with Ariulf of Spoleto and Agilulf. The claim that Gregory complained of the praetorian prefect's failure to supply the customary ration to the deaconries at Naples rests on a modern reference work's citation of *Epistolae* 10.8, which I have not read in the original and which is reported here as paraphrase for that reason. The fully developed Roman *diaconia* as an institution is attested rather later than Gregory's pontificate, and the older habit of reading it back into his relief operations is not followed here.

Figures are given as ranges or withheld. The population of Rome at the imperial height is variously estimated between half a million and above a million, and in the later sixth century between about twenty-five thousand and about ninety thousand; the methods behind these disagree fundamentally and no figure in this range should be hardened. The area and income of the patrimony are commonly quoted from the *Catholic Encyclopedia* of 1913 at between thirteen hundred and eighteen hundred square miles and a dollar figure of that era; the basis is not stated in that work and the figures are reported here only in order to be set aside. Procopius's casualty and mortality figures are not used. Nothing in this module has been reconstructed from memory, and one detail that would have suited the argument — the claim, repeated in older accounts, that there was no *magister militum* resident in Rome and that military command therefore fell to the pope — is contradicted by Gregory's own letter naming Castorius in that office during the siege, and has been dropped.

MODULE 1

# And Handed It Over to Saint Peter

*The founding conquest, 751–756 — an army that belonged to somebody else, a province taken from the party that had taken it from its owner, and a floor conveyed to a claimant who could not have fought for it*

## The question, and why the usual answer is not available

The first thing to establish about any order is who held organised violence at its founding, in what quantity, under whose command, paid by whom. The question is normally easy and its answer is normally the same party that ends up holding the ground: a man wins a battle and keeps what he won, and everything downstream — the division of the spoils, the story laid over the division, the machinery for collecting the revenue — is the working-out of that single fact.

That answer is not available here, and its unavailability is not a gap in the record. It is the case.

The armed force that founded this order was Frankish. It crossed the Alps twice, in 755 and again in 756, defeated the Lombard king in the field on both occasions, besieged him in his capital, dictated terms, and then went home. Its commander took no territory in Italy, established no garrison, appointed no governor, levied no tax, and did not return for the remaining twelve years of his life. What he did instead was to have his chaplain ride round twenty-odd towns collecting their gate-keys, carry the keys to Rome, and lay them on a tomb.

Three parties therefore have to be tracked through this module and none of them is the party that ends up in possession. The Lombards held the ground and lost it. The Franks took the ground and gave it away. The eastern emperor owned the ground in law, was not consulted, protested, and was ignored. The party in possession at the end — the Roman church — put no men in the field at any point in the sequence and had none to put.

What follows reconstructs the sequence, and then asks the question the sequence forces: on what warrant did a man who had taken a province from its occupant convey it to a claimant who could not have taken it himself, and why did the conveyance stick?

## What Aistulf took, and the document that proves he had it

The Lombard kingdom had been pressing on imperial Italy for a hundred and eighty years, and by the eighth century the pressing had become methodical. Liutprand took Ravenna once and gave it back; his successors took the interior. In 751 Aistulf took Ravenna and kept it. The exarch Eutychius, the last man to hold the office, disappears from the record at that point; the accounts of his end differ and none of them is contemporary.

The narrative sources for the conquest are all later and one of them, the *Chronicon Salernitanum*, is a tenth-century compilation. But there is a better kind of evidence, and it is worth pausing on because it is the sort of evidence this study should prefer wherever it exists. On 4 July 751 Aistulf issued a privilege to the monastery of Santa Maria at Farfa, and issued it from the palace at Ravenna. A charter is not a chronicler's claim about who held a city. It is an administrative act performed in a building, dated, by a man who was in it. Whatever else is uncertain about 751, Aistulf was sitting in the exarch's palace in July.

What this meant for Rome was immediate and is best measured by what Aistulf then demanded. The standard accounts, following the papal record, report that in the following year he required the submission of the city and a tribute of one gold *solidus* for every inhabitant. The figure should be carried as the papacy's own account of a Lombard demand and not as a fiscal datum; what matters is not the rate but the form. A per-head levy is the oldest marker of subject status in the European repertoire, and demanding one is a statement that the population in question has become a taxable body rather than a party to a treaty. Aistulf was not proposing an arrangement. He was pricing a conquest he had not yet had to make.

And there was nothing in Italy to stop him. The imperial position that Gregory the Great had described a century and a half earlier as a corridor held by triage was now a corridor with nothing in it. The exarchate was gone. The duchy of Rome had walls, a militia and no field army. The emperor at Constantinople, Constantine V, was occupied with the Arabs, the Bulgars and a doctrinal war of his own making over images which had already produced a revolt in Italy a quarter of a century before and had cost him the affection of the population he would shortly need.

## The other transaction, and what was sold before anything was bought

While Aistulf was taking Ravenna, a different transaction was being completed north of the Alps, and it has to be set out first because everything after it is its consequence.

The Frankish kingdom had for a century been ruled in fact by the mayors of the palace and in name by Merovingian kings who did nothing. Pepin, son of Charles Martel, held the fact. He wanted the name. The account of how he got it is preserved in the annals of his own dynasty's court, and it should be read in the original:

> *Burghardus Wirzeburgensis episcopus et Folradus capellanus missi fuerunt ad Zachariam papam, interrogando de regibus in Francia, qui illis temporibus non habentes regalem potestatem, si bene fuisset an non. Et Zacharias papa mandavit Pippino, ut melius esset illum regem vocari, qui potestatem haberet, quam illum, qui sine regali potestate manebat; ut non conturbaretur ordo, per auctoritatem apostolicam iussit Pippinum regem fieri.*
> *Burchard, bishop of Würzburg, and Fulrad the chaplain were sent to Pope Zachary, to enquire concerning the kings in Francia, who in those times had no royal power, whether this was well or not. And Pope Zachary sent word to Pepin that it was better that he should be called king who had the power than he who remained without royal power; and, that order should not be disturbed, by apostolic authority he commanded that Pepin be made king.*

The following entry disposes of the incumbent in nine words: *Hildericus vero, qui false rex vocabatur, tonsoratus est et in monasterium missus* — Childeric, who was falsely called king, was tonsured and sent into a monastery.

Four things in that passage repay attention, and they set up the whole of the rest of this study.

The first is the grammar of the disposal. Childeric is not deposed. He is described, in the past tense, as having been *falsely called* king — which is not a change being made but a fact being noticed. A statute that says a thing *shall be deemed* has performed a seizure in the voice of a clerk correcting a filing error, and this annal entry does the same work without needing a statute. The instrument is not the tonsure. The instrument is the participle.

The second is that the answer Zachary gave was not a grant. It was a finding, and its content is a piece of pure position logic: better that he be called king who has the power. Nothing in it confers anything. It states a rule about how the world already works, and leaves the reader to apply it. The bishop of Rome was not in a position to

make Pepin king and did not claim to be; he was in a position to say something about the difference between power and title that Pepin could not credibly say about himself. That is the entire commodity, and it is worth being exact about what makes it valuable, because the reflex is to say that two parties made a bargain and each got something. The scarcity here is prior and internal. What Pepin needed was a statement whose value consisted in his not having written it, and there is no way to manufacture that. A man who arranges his own acclamation has printed the note himself, and everyone can see the press.

The third is that the transaction had a price, and the price was the possibility of refusal. An assembly that cannot say no cannot say yes either. The Frankish embassy asked a question, in the form of a question, of a man they did not control, and he could have answered the other way — at some cost to himself, since he was at that moment negotiating with the Lombards and had reason not to offend a mayor of the palace, but he could have. That risk is what the answer was worth. Every later attempt in this study's period to obtain an authorisation from a body that could not refuse will be worth correspondingly less, and it will be possible to watch the difference.

The fourth is a problem of evidence and it is the one to hold longest. The passage just quoted is from the *Annales regni Francorum*, compiled at the Carolingian court decades after the event by the beneficiaries of it, in a series whose year-numbering in this stretch runs about a year ahead of the standard modern dating — the entry is under 749 and the events belong to 750 and 751. The papal archive preserves no copy of Zachary's answer. There is no Roman account of it at all. The single most consequential act of authorisation in the history of the western church survives only in the purchaser's own receipt, written by the purchaser's own household, after the goods had been consumed. That is not a reason to doubt that it happened. It is a reason to be careful about the wording, and to notice which party thought the transaction worth recording.

Pepin was elected king in the Frankish manner and raised on the shield at Soissons in November 751. The annal adds that he was anointed by Archbishop Boniface; the near-contemporary Frankish chronicle that continues Fredegar does not name Boniface, and modern scholarship is divided on whether he performed the ceremony at all. The anointing itself is not in doubt. Its officiant is.

## What the Franks recorded the pope as coming for

Zachary died in March 752. His successor Stephen II inherited a city under a Lombard demand and a treaty Aistulf had already broken, and in the autumn of 753

he did something no bishop of Rome is recorded to have done before: he crossed the Alps in winter to ask a barbarian king for an army.

He did not set out as a claimant. He set out, on the papal record's own account, as an imperial subject on imperial business, carrying an order from Constantinople and travelling in the company of the imperial *silentiarius* John, with instructions to negotiate at Pavia for the restitution of the conquered cities *to the empire*. He negotiated at Pavia. Aistulf refused, and would barely let him leave. He then went north, and everything after that point is on his own account.

The Frankish court annal records the arrival in a single sentence, and the sentence contains the whole legal architecture of the next eleven hundred years:

> *Eodemque anno Stephanus papa venit in Franciam, adiutorium et solatium quaerendo pro iustitiis sancti Petri.*
> *And in the same year Pope Stephen came into Francia, seeking help and relief for the rights of St Peter.*

Not for the rights of the Roman church. Not for the rights of the pope, or of the emperor, or of the Roman people. *Pro iustitiis sancti Petri* — for the rights of Saint Peter, a Galilean fisherman who had been dead for something like seven hundred years and in whose name the claim would be made, without variation, in every Frankish document of the affair from this sentence to the end of the sequence. It is the formula the annalists use in 755 and again in 756. It is not a papal turn of phrase that a Frankish scribe picked up carelessly; it is the way the Frankish court described its own war aims, in its own record, for its own use.

The winter was spent in Francia. At Ponthion in January 754 the king met the pope. At Quierzy in April a promise was made, and here the study meets its first serious hole in the record and should say so at once: **the text of the Promise of Quierzy does not survive.** What Pepin undertook to give, and on what terms, is known only from later documents referring back to it — chiefly a letter of Hadrian I to Charlemagne two decades later, written by an interested party, in the course of asking for more. The foundation charter of the papal temporal power, if that is what it was, is a lost instrument reconstructed from the beneficiary's subsequent correspondence about it.

On 28 July 754, at the abbey of Saint-Denis, Stephen anointed Pepin a second time, anointed his two sons Charles and Carloman alongside him, blessed Queen Bertrada, and — on the same account — bound the Frankish nobles under threat of interdict and excommunication never to elect a king from any line but this one. He conferred on Pepin and the two boys the title *patricius Romanorum*, patrician of the Romans, an office of the eastern empire which the pope had no authority whatever to bestow.

The date, the place and the interdict come principally from the *Clausula de unctione Pippini*, a short notice probably written at Saint-Denis in the 760s. Its authenticity was attacked at length in 1926 as a forgery of about 880 and defended by several scholars immediately afterwards; it has been generally accepted since, though the reference literature still records the authenticity as not secure. This study uses it, and flags it, and notes without comment that a case which will spend its middle centuries on the consequences of one exposed forgery rests, at one of its founding scenes, on a text whose status has never been finally settled.

The Frankish annal for 754 mentions none of this. It records the anointing in one line and says nothing of Saint-Denis, nothing of the patriciate, nothing of any promise of land.

## The two campaigns

In 755 Pepin crossed. The annal, again, in its own words:

> *Pippinus rex per apostolicam invitationem in Italiam iter peragens, iustitiam beati Petri apostoli quaerendo, Haistolfus Langobardorum rex supradictam iustitiam vetando clusas Langobardorum petiit, obviam Pippino regi et Francis venit. Et inierunt bellum, et Domino auxiliante beatoque Petro apostolo intercedente Pippinus rex cum Francis victor extitit.*
> *King Pepin, journeying into Italy at the apostolic invitation, seeking the right of the blessed apostle Peter, [found that] Aistulf king of the Lombards, refusing the said right, had made for the Lombard passes and came out against King Pepin and the Franks. And they joined battle, and with the Lord's help and the blessed apostle Peter interceding, King Pepin with the Franks was the victor.*

Aistulf was shut up in Pavia, promised to do St Peter's right, gave forty hostages and sworn undertakings, and Pepin went home. The whole campaign is four sentences.

Aistulf then did not do it. In the first months of 756 he came south instead and besieged Rome itself for some weeks, ravaging the country and, on the papal account, the cemeteries of the martyrs outside the walls. From inside the siege Stephen wrote to Francia repeatedly, and among the letters preserved in the collection Charlemagne had made in 791 is one that has no parallel in the diplomatic record of the period.

It is superscribed *Petrus apostolus*. It is addressed to Pepin and to his sons Charles and Carloman. It opens *Ego Petrus apostolus* — I, Peter, apostle — and it is written throughout in the first person, as from the apostle himself, to the Frankish kings, asking them to come.

The letter is worth pausing on for exactly one reason, and it is not its audacity. This framework's sharpest single diagnostic is that force never pays for what it does not need, so that where a party under no compulsion pays a real and avoidable cost, the expenditure itself is the evidence that the thing purchased was necessary. The inverse holds here. A party with no army, writing to the only man who has one, chooses the most extreme rhetorical instrument in his repertoire — impersonating the founder of his own institution in a letter to a foreign king — because rhetoric is the entire contents of his arsenal and he knows it. And the second thing the letter demonstrates is about the audience rather than the writer: this was thought likely to work. Somebody in the Lateran, under siege, calculated that a Frankish king would move an army across the Alps for a letter signed by a dead apostle, and the calculation was correct.

Pepin crossed again. The annal for 756:

> *Dum prospexisset Pippinus rex, ab Haistulfo Langobardorum rege ea non esse vera, quod antea promiserat de iustitiis sancti Petri, iterum iter peragens in Italiam Papiam obsedit, Haistulfum inclusit, magis magisque de iustitiis sancti Petri confirmavit, ut stabiles permanerent, quod antea promiserat; et insuper Ravennam cum Pentapolim et omni Exarcatu conquisivit et sancto Petro tradidit.*
> *When King Pepin perceived that what Aistulf king of the Lombards had previously promised concerning the rights of St Peter was not true, journeying again into Italy he besieged Pavia, shut Aistulf in, and confirmed more and more strongly concerning the rights of St Peter that what he had previously promised should stand firm; and moreover he conquered Ravenna with the Pentapolis and the whole Exarchate* ***and handed it over to Saint Peter****.*

*Conquisivit et sancto Petro tradidit.* The Frankish court's own annalist, writing for a Frankish audience with no reason to flatter Rome, states the founding transaction of the papal state in five Latin words, and states it as a conveyance from a living conqueror to a dead apostle.

## The keys

The execution is described in the papal record, which is the fuller account and also the interested one. Pepin sent Fulrad — the same abbot who had carried the question to Zachary six years before, which is worth noticing — to take delivery. Fulrad went through the cities of the Pentapolis and the Aemilia in company with Aistulf's representatives, took hostages from the leading men of each place, received the keys of the gates, brought them to Rome, and:

> *Et ipsas claves tam Ravennantium urbis quamque diversarum civitatum ipsius Ravennantium exarchatus una cum suprascripta donatione de eis a suo rege emissa in confessione beati Petri ponens, eidem Dei apostolo et eius vicario sanctissimo papae adque omnibus eius successoribus pontificibus perenniter possidendas adque disponendas tradidit.*
> *And placing those keys — both of the city of Ravenna and of the various cities of that exarchate of Ravenna — together with the above-written donation issued concerning them by his king, upon the confession of blessed Peter, he handed them over to the same apostle of God and to his vicar the most holy pope and to all his successors the pontiffs, to be possessed and disposed of in perpetuity.*

The record then lists what was in the parcel: Ravenna, Rimini, Pesaro, Conca, Fano, Cesena, Senigallia, Iesi, Forlimpopoli, Forlì with the fort of Susubium, Montefeltro, Acerragio, Montelucati, Serra, the castle of San Marino, Bobbio, Urbino, Cagli, Luceoli, Gubbio, Comacchio — and the city of Narni, which is added with a note that it had been taken from the Roman side by the duchy of Spoleto over the course of years.

Twenty-two named places, with their keys, handed to a legal person, in perpetuity, at a shrine.

The instrument is worth reading as a conveyancer would read it, because its form is the whole of its durability. It is not a grant to Stephen. Stephen is named in it as the apostle's vicar, which is to say as an agent, and the grant runs past him to "all his successors" without limit of time. The Landscape established that the wealth of the Roman church had never belonged to any bishop of it, because Roman corporate law had made the church a legal person capable of taking, holding and never dying, four centuries before there was anything much to take. That instrument is now applied at the scale of a province. What has been conveyed cannot be inherited by a pope's family, because he has none and it was never his; it cannot lapse on his death, because the grantee does not die; and it cannot be resumed by the grantor, because the grantor has said in the document that it is perpetual and has then gone back over the Alps.

## The consideration

Every settlement has a consideration — the thing the recipient owes in return — and naming it is usually the single most diagnostic fact available about an arrangement, because a grant that buys armed service leaves a rival with a retinue and a grant that buys compliance leaves a dependant with a title. Here the question has to be turned

round, because the party doing the giving is the party with the army, and the question is what the *giver* got.

He answered it himself, and the answer is on the record because the eastern empire forced him to give one.

An imperial envoy had followed Pepin from Rome to Marseilles and then into Italy, catching him at last in Lombard territory near Pavia, and asked — offering imperial gifts — that the cities of the exarchate be restored to imperial jurisdiction, which was, in strict law, unanswerable. The papal record gives Pepin's reply:

> *...asserens isdem Dei cultor mitissimus rex nulla penitus ratione easdem civitates a potestate beati Petri et iure ecclesie Romanae vel pontifici apostolice sedis quoquo modo alienari; adfirmans sub iuramento, quod per nullius hominis favorem sese certamini sepius dedisset, nisi pro amore beati Petri et venia delictorum; asserens et hoc quod nulla eum thesauri copia suadere valeret quod semel beato Petro obtulit auferret.*
> *...the same most gentle worshipper of God, the king, asserting that on no account whatever were those cities to be alienated in any way from the power of blessed Peter and the right of the Roman church and of the pontiff of the apostolic see; affirming upon oath that he had not given himself to battle again and again for the favour of any man, but for love of blessed Peter and the pardon of his offences; asserting also that no quantity of treasure could persuade him to take away what he had once offered to blessed Peter.*

*Pro amore beati Petri et venia delictorum.* For love of blessed Peter and the remission of his sins.

That is the consideration, stated under oath by the party who paid it, in answer to a competing offer of treasure from the lawful owner. It should be taken seriously as a statement of motive and it should also be read structurally, because structurally it is remarkable.

It is not on the list. A grant may buy armed service, or political compliance, or tax collection, or a marriage, or a conversion. This one bought absolution, and absolution has three properties that nothing else on that list has. It cannot be repossessed, because it is not a thing held anywhere that a court could reach. It costs the issuer nothing to produce, which means the issuer can pay it out indefinitely without depleting anything. And it is worth precisely nothing to anybody who does not believe in it, which is the reason it was safe to accept a province in exchange for it: no third party could outbid, because no third party could manufacture the currency. Constantine V could offer treasure. He could not offer the remission of Pepin's sins, and everyone in the transaction knew it.

Whether Pepin believed it is not recoverable and is not the question. The deviation test — did he break toward his own advantage, or against it, at real cost — reads the same either way here, since he took an army over the Alps twice, in successive years, and came home with nothing but forty hostages and a title. What can be said is that the consideration was one only this counterparty could supply, and that this is the whole of why the arrangement did not have a competing bidder.

## The owner who was not consulted

One party to all this was never asked, and the way his exclusion was managed is the founding legal fiction and belongs on the page as such.

The exarchate was imperial territory. It had been imperial territory continuously since Justinian's reconquest two centuries before, it had been taken from the empire by force in 751, and its owner was alive, in office, and actively demanding it back through envoys who travelled the length of the Mediterranean to make the demand in person. Under any law anybody in the transaction recognised, Pepin had recovered stolen goods and was obliged to return them to the man they were stolen from.

Nothing in the surviving documents denies this. What the documents do instead is decline to describe the transaction in those terms at all. The cities are never said to be taken from the emperor. They are said to belong to the *potestas* of blessed Peter and the *ius* of the Roman church — a phrasing which does not argue that the emperor's title is bad but simply proceeds as though there were an older and better one, and then leaves the question of where that older title came from entirely unaddressed. The Frankish annalist does the same thing in a different register: Pepin *conquered* Ravenna, and *handed it over* to St Peter, and the annalist has no more to say about who had owned it before Aistulf than about the weather.

This is the ordinary shape of a legal fiction and it should be named as one. The gap is not an oversight; it is the load-bearing absence. There is, in 756, no document of any kind explaining how Saint Peter came to have a right in the Emilia and the Pentapolis. The claim is asserted in the formula *iustitia sancti Petri* from the first Frankish entry onward, and never once grounded. A hole of exactly that shape, in exactly that place, is the specification for the document that Module 3 will have to examine.

Constantine V's response to losing a province is recorded in the same Frankish annal, one year later, without comment, in the entry for 757: he sent King Pepin an organ, among other gifts.

## Reading the founding against the framework

Five findings, and one confession about the evidence.

**The floor was loaned rather than laid, and a loaned floor has to be re-borrowed.** The framework's account of a founding assumes that whoever supplies the organised violence keeps the ground, and everything downstream is worked out from that single fact. Here the two come apart completely: the party that supplied the violence took nothing, and the party that took everything supplied none. Call this a **loaned floor**, and note the diagnostic that follows from it, because it predicts the shape of the next several centuries. An order whose force is borrowed must borrow it again every time it is needed, from a lender who is under no continuing obligation and whose successor was not party to the original arrangement. It will therefore spend its political energy not on maintaining an army but on maintaining a *relationship* — which is precisely what the surviving archive of this period is: a collection of ninety-nine letters from popes to Frankish rulers, preserved because a Frankish king in 791 thought it worth having them copied. The characteristic activity of an order with a loaned floor is correspondence.

And the liability attaches on the first day. Every purchased authorisation is a standing power over the purchaser that he created himself; every loaned floor is a standing power over the borrower on the same terms. Pepin went home. His grandson would come to Rome and be crowned in it, and the question of who had made whom would then be open for three hundred years.

**The consideration was absolution, which is not on the list and behaves differently from everything that is.** Stated on oath by the payer, against a competing offer of treasure from the lawful owner: *pro amore beati Petri et venia delictorum*. Unrepossessable, costless to issue, and worthless to anyone outside the belief — which is exactly why it could not be outbid and exactly why the issuer could go on issuing it. This is a genuine addition to the settlement module's catalogue of considerations, and it comes with a warning attached: an order that pays for its floor in this currency has an unlimited supply of the payment and no way to make anyone accept it. The day the currency stops being honoured, the arrangement has nothing to fall back on, because nothing else was ever exchanged.

**The sequence is neither of the two the framework has recorded.** A conqueror lays his floor and fits his story afterwards, because he does not need to be lawful until he needs his grants to be heritable; an insider whose entire standing is lawfulness must run it the other way, law first and taking second. This founding is a third pattern. The **authorisation came first** — Zachary's answer in 750 or 751 — the **floor came four and five years later**, and the authorisation was issued by the party that would receive

the floor. The order did not legitimate its own conquest; it legitimated somebody else's kingship and was paid in a conquest. That is worth stating plainly as an addition, because it identifies a position the framework has not previously had to describe: a party that has a saleable warrant and no force at all, and can therefore only acquire force by selling the warrant to somebody who has it.

**Which makes this a mutual authorisation, and mutual authorisations fail by hollowing.** Each party here holds a title the other conferred. Pepin is king by an answer from Rome; Rome holds a province by a grant from Pepin. This collection's studies of authorisation have found that such arrangements do not fail by one side capturing the other — they fail by hollowing, remaining load-bearing only for as long as each party retains a base the other did not supply. On the day the keys went onto the tomb, both parties still had one: Pepin had an army raised in Francia by Frankish means, and the papacy had the Patrimony, the see and the belief of Latin Christendom, none of which came from Pepin. The question for the modules that follow is when, and whether, that stopped being true on either side.

**And 754 is the wrong single date, though it is the right ceremony.** Three things happened and they are separable. In 750 or 751 a warrant was issued. In July 754 a ceremony bound the two parties, with an anointing, a dynastic interdict and an imperial title the issuer did not own. In 756 a province was conveyed. The Landscape has already argued that the apparatus of this order long predates all three. What 754 dates is not the founding of the state and not the acquisition of the territory but the moment the two transactions were welded into one relationship — which is a real event and probably the right thing to put on a title page, provided nobody mistakes it for the day a state was made.

**The confession.** There is no disinterested account of any of this. The Frankish annals are the Carolingian court's record of the Carolingian court's achievements, compiled retrospectively, with a year's slippage in the dating and an interest in every claim they make. The *Liber Pontificalis* is the papal chancery's account of the papacy's acquisitions, written by the men who received the keys. The instrument that is supposed to be the foundation of the whole arrangement, the Promise of Quierzy, does not survive in any form and is known only from the beneficiary's later correspondence about it. The *Clausula* on which the Saint-Denis ceremony rests has been argued to be a forgery of the 880s. And the dispossessed party's version of events survives nowhere except in what the other two report him as having said, and then only in order to record that he was refused.

The information asymmetry this method exists to read is normally between what was said at the centre and what was done on the ground. Here there is no such gap

available, because both surviving records are centres and they agree. What they agree on is the formula: that the thing at issue throughout was the right of Saint Peter. What neither of them anywhere explains is where that right came from.

## A note on sources.

Quoted exactly, in the original, from public-domain texts, with translations of my own: the *Annales regni Francorum* (also called the *Annales Laurissenses maiores*) for the embassy to Zachary and the answer, the tonsuring of Childeric, Stephen's arrival in Francia, the campaign of 755, and the entry of 756 conveying Ravenna, the Pentapolis and the whole exarchate to Saint Peter — the Latin as printed in the standard editions and reproduced in the Latin Library and Latin Wikisource; and the *Liber Pontificalis*, Life of Stephen II, in the Latin of Duchesne's edition of 1886–92, for Fulrad's deposit of the keys on the confession of blessed Peter with the list of cities, and for Pepin's answer to the imperial envoy.

On the letter written in the name of the apostle: it is *Codex Carolinus* epistle 10, edited by Wilhelm Gundlach in *Monumenta Germaniae Historica*, *Epistolae* III (Berlin, 1892), pages 501–503; it is superscribed *Petrus apostolus*, addressed to Pippin, Charles and Carloman, opens *Ego Petrus apostolus*, and is written throughout in the first person. I have the opening words, the superscription, the addressees and the letter's grammatical form on the authority of the scholarly literature citing Gundlach, and have not read the full Latin against the edition; nothing beyond those features is asserted here, and the letter's content is described only in the most general terms for that reason.

Paraphrased and credited to modern scholarship and to standard reference works: the fall of Ravenna and the end of the exarchate in 751, including the privilege Aistulf issued to Farfa from the palace at Ravenna on 4 July 751, which is the contemporary documentary evidence of possession as against the tenth-century *Chronicon Salernitanum*; the Byzantine political situation under Constantine V; Stephen's departure from Rome in the company of the imperial *silentiarius* John and under an imperial order; the meeting at Ponthion in January 754; the anointing at Saint-Denis on 28 July 754 with the conferral of the title *patricius Romanorum*; and the Lombard siege of Rome in the early months of 756.

Three flags on the reliability of the record, all of them material to the argument. The text of the **Promise of Quierzy of April 754 does not survive**; its contents are known only from later documents referring back to it, principally a letter of Hadrian I to Charlemagne, and no reconstruction of its terms is attempted here. The **Clausula de unctione Pippini**, which is the principal source for the date, the place and the dynastic

interdict at Saint-Denis, was argued by Max Buchner in 1926 to be a forgery of about 880; it was defended immediately by Levillain, Baudot, Krusch and Schulz, and has been generally accepted since, but the standard reference repertories still record its authenticity as not secure, and this study uses it on that basis. The **Annales regni Francorum** run about a year ahead of the standard modern dating in this stretch — the Zachary embassy stands under 749 and belongs to 750 or 751 — and the annal's statement that Boniface performed the anointing at Soissons is not corroborated by the continuation of Fredegar and is doubted by many modern scholars; the anointing itself is not in doubt, only its officiant.

Figures. Aistulf's reported demand of one gold *solidus* per head from the Roman population comes from the papal record and is given here as that record's characterisation of a Lombard demand, not as a fiscal datum. The forty hostages of 755 are the Frankish annal's own figure. No estimate is offered of the size of either army, because none in the sources can be relied on. The list of twenty-two places conveyed in 756 is given as the *Liber Pontificalis* gives it, and the identification of several of the smaller names is disputed among modern editors.

MODULE 2

# Three Lives and a Reversion

*The settlement — how an order whose officers could have no heirs manufactured heirs outside itself, kept the reversion, and drew up a prior title to a possession it already held*

## The problem stated exactly

A conquest becomes a country when the men with weapons stop competing for the spoil and start defending the way it was divided. That transition is not moral and it does not run on gratitude. It runs on manufactured self-interest: the division has to produce a set of people who would be worse off if it collapsed, and who can each predict that the others have the same interest, so that an attack on any one holding draws a coalition rather than a scramble. Where that has been achieved, the arrangement holds itself up without anybody being told to hold it up, and the ruler's army is free to face outward.

The universal instrument for achieving it is heritable title. Give a man land his son will inherit and you have bought not one defender but a line of them, each of whom will fight for the arrangement because the arrangement is the reason his family is not landless. The technique is so nearly universal that it is easy to mistake for the thing itself.

This order could not use it. Its officers were celibate by rule and could have no lawful sons; its property belonged to a corporation and had never belonged to any of them; and what a bishop of Rome handed on at his death was not an estate but a post. Strike heritability out of the standard account of durability and the apparatus should not have lasted a generation.

The ground before the founding has already disposed of half the difficulty, and it is worth restating the half that was disposed of so that the remaining half stands out clearly. Roman corporate law, from the rescript of 313 and the constitution of 321, made the church in each city a legal person capable of taking by will, holding in its own name and never dying. That solves **holding**. It explains how four centuries of legacies could accumulate into the largest landed estate in the western Mediterranean without one act of inheritance occurring inside the institution. It explains nothing whatever about defence. A corporation does not fight for itself, and the men who administered it held posts they could lose, could not transmit, and had not paid for.

So the question this module exists to answer is narrow and hard: **who, exactly, would be worse off if this arrangement fell, and why would his son also be worse off?**

The order found two answers. Neither is the one a reader would guess, both worked, and both leaked — and the two great internal convulsions of its history, eleventh century and seventeenth, are the same crisis met at the two ends of the same mechanism.

## What a benefice is, and why it cannot be the answer

Begin by clearing away the instrument that looks like the answer and is in fact the problem.

The characteristic tenure of this order was the **benefice** — an office with a revenue attached, conferred by a superior, held for the life of the holder, and reverting to the collator on his death. A man ordained needed a *titulus*, a source of maintenance, and the benefice supplied it; the revenue was not a salary paid by an employer but the income of an endowment annexed to a particular function, which the holder drew for as long as he held the function.

Set that against the **fief**, which was the settlement instrument of every secular order in Latin Europe over the same period. A fief was heritable. A man who held one held it for his line, and the arrangement that guaranteed his tenure also guaranteed his grandson's, which is why he would ride out to defend it and why his neighbours could predict that he would.

The difference is not a technicality of tenure law. It is the difference between a defender and an employee, and it runs in the direction that damages this order.

A benefice manufactures a man whose entire interest in the arrangement expires with him. He has no line to protect, so the arrangement's survival past his death is worth nothing to him that his own conscience does not supply. Worse, the incentive runs the other way: a holder who cannot transmit has every reason to draw as much as he can while he holds, because nothing he leaves in the ground will go to anybody he cares about. Life tenure without transmission is a formula for short horizons.

And the record is exactly what that formula predicts. The chronic disorders of this order's internal economy across the whole of its history — the accumulation of several benefices in one pair of hands, the absentee holder drawing the revenue of a parish he had never visited and paying a vicar a fraction to do the work, the outright sale of offices, the treatment of a bishopric as a rent rather than a duty — are not corruptions of the benefice system by wicked men. They are its ordinary output. An institution

that hands men non-transmissible life interests in revenue streams and then expresses surprise at pluralism has misread its own instrument.

The benefice is therefore not the mechanism that bound this order together. It is the cost the order paid for having no other way to maintain its own staff. The binding was done somewhere else.

## The instrument that actually did the work

It was done by lease, and specifically by an instrument the Roman church inherited from Roman law and used, on a very large scale, for a thousand years: **emphyteusis**.

An emphyteutic grant is not a lease in the modern sense and not a sale. The grantee — the *emphyteuta* — takes the full use of the land and everything it produces, in exchange for a fixed annual render, the *canon*, which does not rise. His interest is alienable: he may sell it, and he may leave it by will, and if he dies without a will it passes to his heirs on the ordinary rules. He may improve the land and keep the improvement. The grantor retains a title that in practice does almost nothing except sit there — the land comes back if the *canon* goes unpaid for a stated period, two years in the case of church land, or if the term expires, or if the holder dies without heirs and without a will.

On the papal estates this was the normal tenure. By the later sixth century much of the patrimonial land, in Sicily and elsewhere, was held on emphyteusis running for the life of the cultivating lessee and of two successive heirs after him. **Three lives**, and then reversion.

Now consider what that instrument does, and notice that it does the one thing the order could not do for itself.

The Roman church could not produce a class of men with heritable interests *inside* itself. What it could do — what it did, on an enormous scale, continuously, for centuries — was produce a class of men with heritable interests *in its land*, held from it, defined by its title, and reverting to it. The lay family that took an emphyteutic grant got the future tense: the farm their grandsons would work. The church kept the reversion and the record. And the two facts are the same fact, because the family's claim to the farm is only good for as long as the church's claim to the farm is good.

That is the anchor mechanism working exactly as it works everywhere else, with one substitution. Every emphyteutic holder's title derives visibly from a single source. An attack on that source is an attack on the ground beneath all of them at once, so each of them can predict that the others will resist it, and each resists for the ordinary reason that a world in which the Roman church's title can be set aside is a world in which his own can. The order manufactured defenders who would fight for it because they were

fighting for themselves — and it manufactured them, crucially, in bodies that could have sons.

Call this the **exported settlement**, and state its general form, because it is not a fact about celibacy and should not be filed as one: *an order that cannot make heirs internally can make them externally, by granting heritable interests in its own property to those who can — provided it retains the reversion. The reversion is what makes the arrangement a settlement rather than a sale.* A body that sells its land outright has raised money and made nothing; a body that grants three lives at a fixed rent has converted an acre into a family whose interest in its landlord's survival is now hereditary.

There is a small piece of evidence for this reading that is worth more than its size, and it comes from the correspondence already used to describe the estate in the years before the founding. Gregory intervened, against his own rectors, to protect the heirs of dead lessees from having their inheritance appropriated by the agents of the Roman church. A landlord defending a tenant's succession against his own estate office is not maximising his revenue that year. He is maintaining the credibility of the instrument — because an emphyteusis that the grantor eats when the grantee dies is not an emphyteusis and will not buy him anything the second time.

## What the exported settlement costs

Every settlement produces its own characteristic failure, and this one's is severe and arrived on schedule.

The class of men the exported settlement manufactures is local, hereditary, landed, and — in the conditions of central Italy — armed. The office that grants the leases is elective, held by one man at a time, and held by a man with no line of his own. Put those two facts in one province for two hundred years and the outcome is not difficult to forecast: the tenants capture the landlord.

That is the tenth century in Rome, and the shape of it is unmistakable. The great Roman families — the house of Theophylact, then the Crescentii, then the counts of Tusculum — did not need to seize the Patrimony, because they already held its use. What they seized was the office that administered it, and they held that office as if it were a family property, filling it with their sons and their clients across generations, in the period later polemic named the *pornocracy* and which needs no polemic to be legible. An elective office with no heirs of its own, surrounded by hereditary families holding heritable interests in its estate, is an office waiting to be inherited by somebody.

The framework has a name for this: it is capture, and it is the exported settlement's specific vulnerability rather than an accident of bad centuries. What the mechanism

buys is a hereditary class with an interest in the continuance of the order's **title**. What it does not buy, and cannot buy, is any interest at all in the independence of the order's **office** — and those are different things. A Tusculan count wanted the Roman church's title to his land to be unimpeachable. He also wanted his brother to be pope. Neither desire contradicts the other.

The same reading explains a fact about the Papal States that is otherwise puzzling and is usually reported as a failure of administration. Across most of its history this was not a governed territory in the way a kingdom was governed. It remained a patchwork of small counties and marquisates inherited from the Lombard arrangement, each built round a fortified strongpoint, over which the popes exercised sovereignty in the documents and very little in the hills. That is precisely what an exported settlement produces. It makes defenders of a title; it does not make subjects of a territory. Those are separate operations and this order only ever performed the first one properly.

## The other export: nephews

The exported settlement runs outward. There was a second leak, running sideways, and it is the one that gave a word to every European language.

A man forbidden sons has nephews. Across the whole of this order's history, the officer who could not transmit his position transmitted what he could — money, offices, land, and a family's standing — to the nearest kin the rule permitted him to acknowledge. What is remarkable is not that it happened but that it was eventually **given a desk**. In 1566 Pius V formally created a curial office for the pope's relative: the cardinal-nephew, *cardinalis nepos*. The leak was regularised, staffed, and put on the organisational chart, where it stayed for a hundred and twenty-six years.

The scale is not marginal. From the Avignon period to the end of the seventeenth century, nearly every pope who created cardinals at all created at least one from his own family, and every pope of the Renaissance did. Nephews were the commonest relation elevated, but the lists include brothers, cousins, grandnephews, uncles, and sons — legitimate, illegitimate and adopted. And the purpose is legible in what the families did with the time: a pontificate was a window, usually of a decade or less, during which a life interest in the revenues of Latin Christendom could be converted into a permanent secular estate for a house that would still be there when the window closed. The Roman families whose palaces still stand — and the names are the names of popes — did not accumulate slowly. They accumulated in one reign each.

The attempt to close it is dated and precise. On 22 June 1692 Innocent XII issued the bull *Romanum decet Pontificem*, which abolished the curial office of cardinal-nephew, forbade a pope to bestow estates, offices or revenues on any relative, permitted

the elevation of one relative to the cardinalate and only if he were otherwise suitable, and capped what a pope's nephew might receive by way of stipend or endowment at twelve thousand *scudi*. Innocent is reported to have said that the poor were his nephews. Two years later he mounted an expensive campaign against the sale of offices, compensating the existing holders out of the treasury — which is itself a measure of how thoroughly the benefice's incentives had been capitalised.

And then comes the fact that settles the analysis, and it is a beautiful piece of evidence because nobody arranged it. Of the eight popes of the eighteenth century — reigning under the bull, after the office had been abolished — only three did not raise a nephew or a brother to the cardinalate. Two of those three were members of religious orders: men who, in the sense that mattered, had no family to promote.

Read that the right way round. The rule did not remove the pressure. It removed the *office*. The men who stopped manufacturing heirs after 1692 were, in the main, the men who had none available.

Call this the **manufactured heir**, and state the general form, because it applies well beyond this case: *a rule against heirs does not remove the demand for heirs. It relocates the demand by one degree of kinship, and the relocation eventually acquires an institutional home. To find it, look for the office the order created to house the thing it had forbidden.* An institution that has invented a job title for its own prohibited behaviour has told you where its settlement is really being made.

## The prior title

There remains the document, and it belongs in this module as a conveyance before it belongs anywhere else as an argument.

The founding had left a hole of a very particular shape. Every instrument of 756 — Frankish annal and papal record alike — asserted that what was at stake was the *right of Saint Peter*, and not one of them ever explained where that right had come from. Somebody, within a generation or two of the conveyance, wrote a document that explains it.

The *Constitutum Constantini* has the form of an imperial decree of the fourth century. Its operative granting clause reads:

> *Unde ut pontificalis apex non vilescat, sed magis quam terreni imperii dignitas gloria et potentia decoretur, ecce tam palatium nostrum, ut predictum est, quam Romanam urbem, et omnes Italiae seu occidentalium regionum provincias, loca et civitates prefato beatissimo Pontifici nostro Silvestro universali Papae contradimus atque relinquimus, et ab eo et a successoribus eius per hanc divalem*

*nostram et pragmaticum constitutum decernimus disponenda, atque iuri sanctae Romanae ecclesiae concedimus permansura.*
*Wherefore, that the pontifical summit may not be cheapened but rather adorned with glory and power beyond the dignity of an earthly empire — behold, both our palace, as aforesaid, and the city of Rome, and all the provinces, places and cities of Italy and of the western regions, we hand over and relinquish to the aforesaid most blessed pontiff, our father Sylvester, universal Pope; and by this our divine and pragmatic constitution we decree that they be at the disposal of him and of his successors; and we grant that they shall remain under the right of the holy Roman church.*

And then the clause that does the harder work:

*Unde congruum perspeximus nostrum imperium et regni potestatem in orientalibus transferri regionibus, et in Bizantiae provinciae optimo loco nomini nostro civitatem edificari, et nostrum illic constitui imperium, quoniam ubi principatus sacerdotum et Christianae religionis caput ab imperatore celesti constitutum est, iustum non est, ut illic imperator terrenus habeat potestatem.*
*Wherefore we have judged it fitting that our empire and the power of our kingship be transferred into the eastern regions, and that in the best place of the province of Byzantium a city be built in our name and our empire established there — since where the primacy of priests and the head of the Christian religion has been established by the heavenly emperor, it is not right that an earthly emperor should hold power.*

Two things about the drafting deserve to be noticed before anything is said about the argument.

The first is the vocabulary. *Contradimus atque relinquimus* — we hand over and relinquish. *Ab eo et a successoribus eius disponenda* — to be at the disposal of him and his successors. *Iuri sanctae Romanae ecclesiae permansura* — to remain under the right of the holy Roman church. Set beside it the papal record of what Fulrad did with the keys in 756: handed them to the apostle and his vicar *adque omnibus eius successoribus pontificibus perenniter possidendas adque disponendas*. The same three moves in the same order — a handing over, a running to successors without limit of time, and a vesting in a *ius*. Whether the forger was copying the chancery's habits or the chancery was already thinking in the forger's terms is not settled by this and is not settled here. What can be said is that the two texts came out of the same drafting world, and that this is the ordinary way such documents are made: not invented from nothing, but assembled from the forms a scriptorium had to hand.

The second is the direction of the second clause, which is the interesting one and is usually skipped in favour of the first. §7 does not grant anything. It *explains an absence*. It accounts for why there is no emperor in Rome, and it accounts for it as a voluntary departure on grounds of fitness rather than as a loss, a defeat, or a taking. The ground the Landscape found — a city the empire could no longer garrison, a bishop performing the functions of a government he had not claimed, an imperial chair that was empty because holding Rome cost more than it yielded — is here re-described as an emperor who withdrew because it would have been improper to stay.

That is a legal fiction of the highest quality, and it should be named as one rather than merely reported. The fiction is not that Constantine gave Rome away. The fiction is that the vacancy was a decision.

On the document's date this study does not adjudicate and readers should be told that the ranges are genuinely wide. The majority position places composition in the Lateran in the 750s or 760s, in the pontificate of Stephen II or of his brother and successor Paul I; a Frankish origin has been argued repeatedly, from the older scholarship down to recent work, on the ground that the text surfaces first in Frankish collections; older reconstructions divide the text into an earlier core and a later grant. Anything from the mid-eighth century to the mid-ninth has serious defenders.

## The document that was drafted and then filed

Here is the fact that changes the reading, and it is not obscure — it has been settled scholarship for a century, and it is almost never allowed to bear its full weight.

**The forgery was not used.**

There is no evidence that the *Constitutum* influenced papal policy in the time of Charlemagne. It does not appear in the Roman argument for the acquisitions of the eighth century. It surfaces first in Frankish collections — the false decretals of the ninth century, and a manuscript from Saint-Denis — and the earliest certain quotations of it are by Frankish authors in the second half of the ninth century, which is to say a hundred years or more after the likeliest date of composition and by people other than its beneficiary. It was not used in the papal chancery until the middle of the eleventh century. The first certain use of it at Rome is by Leo IX in 1054, in the exchange with Constantinople that ended in the schism — and Leo IX was a German, by birth and by training, not a Roman. Serious scholarship has argued that the papacy did not make substantial public use of it in support of its claims for another two centuries after that.

A title deed to the Papal States, drawn up within living memory of their acquisition, sat in the archive for something between two and three hundred years without being produced.

Take that seriously and it corrects the standard account of forgeries — including this collection's own, which holds that nobody counterfeits a worthless receipt, so that a forgery is evidence of the market price of the thing forged. That finding survives, but this case adds a term to it, and the term matters.

**The document was drafted before the market for it existed.** In the 750s the papacy did not need a prior imperial title, because it had a better instrument: a Frankish army in the field and a conveyance from the man who had won with it. Against Aistulf, Pepin's grant was unanswerable. What Pepin's grant could not answer was a claim of a completely different kind — the emperor's, whose whole case was that Pepin had possessed nothing he was entitled to give. A conqueror's conveyance is worthless against the party the conqueror took from. Only a *prior* grant from that same party answers that objection, and only an imperial document answers an imperial claim.

So the forgery is cut precisely to the shape of the single argument its owner could not otherwise win — and it was not needed until that argument was actually made, in the eleventh century, when the reformed papacy stopped being an unarmed source of other people's titles and began asserting jurisdiction over kings and emperors in its own right.

The general form is worth stating plainly and carrying forward: **in a forged instrument, the date of composition and the date of first deployment are two separate pieces of evidence and they answer two different questions.** The composition date tells you what hole existed in the title at the time of drafting. The deployment date tells you when somebody finally probed the hole. On this case they are three centuries apart, and reading either one as though it were the other produces a false account of why the document was made.

## Who was outside the settlement

A settlement is exactly as wide as the set of people whose holdings it authorises, and everyone else lives under the same force with none of the protection. The arithmetic here is stark, and it should be set down rather than left implied.

The exported settlement bound lay families of substance — the men who could take an emphyteutic grant, pay a *canon*, and hold three lives. Below them, on the same land, were the *coloni*: cultivators tied to the soil, personally free in law, whose labour produced the surplus that the *canon* was a slice of. Nothing in an emphyteutic grant creates any right in the man who works the farm. The instrument authorises the lessee against the church and the church against the world, and it is silent on the cultivator in both directions. The correspondence of the estate is full of instructions about not oppressing him, which is the standing signature of a relationship in which the extracted

party has no title anybody is obliged to defend and must rely instead on the good intentions of a distant landlord.

Above him, the general population of the territories conveyed in 756 were not parties to anything. They were transferred as an appurtenance of the cities whose keys were carried to Rome. Nothing in the Frankish grant, nothing in the papal record of it, and nothing in the forged prior title creates a single right in any inhabitant of the Pentapolis. What all three documents create is a right *over* them, vested in a corporation, in perpetuity.

Legibility is not pardon. Describing the machinery by which a division of other people's land was made durable is not a defence of it, and the mechanism examined in this module is precisely the mechanism by which an extraction became a lawful extraction — which is worse rather than better, because lawful extraction lasts.

## Reading the settlement against the framework

Five findings.

**The exported settlement.** An order that cannot make heirs internally can make them externally, by granting heritable interests in its own property to bodies that can inherit, while retaining the reversion. This is the mechanism that answers the question this study was built around, and it is not one of the answers the question anticipated. The reversion is the load-bearing term: it is what makes the transaction a settlement rather than a sale, because it keeps the grantee's title permanently derivative of the grantor's, which is the whole of why the grantee defends the grantor. Heritability was never the variable. What a settlement requires is that holdings be **institutional** — that they derive from a source that exists independently of any person who confers them — and heritability is only the commonest way of arranging that. Here the source was institutional from the first day and the heritability was subcontracted.

**The manufactured heir.** Celibacy did not remove the pressure toward heritable transmission; it displaced the pressure by one degree of kinship, where it was met by nephews. And the displacement acquired an institutional home: a curial office, formally created in 1566, abolished in 1692, and evaded thereafter by every pope who had a relative to promote. The general rule to carry forward is that **a prohibition does not extinguish the demand it targets; it relocates it, and the relocation eventually gets an office.** Find the office and you have found where the order's settlement is actually being made. The corollary is the sharper half: after the prohibition, the men who complied were disproportionately the men who had nothing to gain by breaking it. Compliance rates measure opportunity at least as much as they measure discipline.

**The benefice is a cost, not a solution.** The standard tenure of this order manufactured men with non-transmissible life interests in revenue streams, which is a formula for extraction during tenure. Pluralism, absenteeism and the sale of offices are the benefice's ordinary output and not its corruption. This is a genuine addition to the settlement module's tools: alongside asking what a grant buys, ask **what horizon it gives the grantee**, because a tenure that ends at death and transmits nothing produces a holder whose rational time preference is the length of his own life.

**On forged instruments, composition and deployment are separate data.** Three centuries separate the drafting of the *Constitutum Constantini* from its first certain use at Rome. The composition date reports what was missing from the title when it was drawn. The deployment date reports when the missing thing was finally demanded. Reading the second off the first — assuming that a forgery was made in order to do the work it was eventually used for — produces the standard and wrong account of this document, in which a grasping papacy manufactured a deed to seize central Italy and then seized it. What actually happened is that a possession acquired by ordinary conquest and conveyance was, shortly afterwards, provided with a prior title against an objection nobody was yet pressing; and the title lay unused until the objection arrived.

**And the study's central question now has a shape rather than an answer.** The order did not solve the problem of binding without heirs. It routed around it, in two directions at once, and both routes leaked — outward into lay families, where the leak produced the capture of the papacy by the Roman nobility in the tenth century; and sideways into nephews, where the leak produced the papal dynasties and was eventually legislated against by an order that had spent a hundred and twenty-six years giving it a salary. The eleventh-century reform and the seventeenth-century reform against nepotism are not two separate episodes of moral housekeeping. They are the same institution attacking the two ends of the single mechanism by which it had made itself durable, having discovered on each occasion that the mechanism which manufactured its defenders also manufactured its captors.

That is a worse answer than a clean one and a better result. An order that had genuinely solved the no-heirs problem would not have needed to legislate against nephews in 1692.

One thing to carry into what follows. This collection's studies of authorisation have found that a source of title which acquires the means of enforcement converts itself into a claimant and forfeits the immunity that made it useful to everyone. The forged prior title was produced in the eighth century and first deployed at Rome in 1054, in the exchange with Constantinople — which is to say at the precise moment when the papacy began to assert a jurisdiction of its own rather than merely to authorise other

people's. The instrument and the transition arrive together. Whether that is coincidence or mechanism is the question the next stretch of this study has to answer.

## A note on sources.

Quoted exactly, in the original Latin with translations of my own, from public-domain texts: sections 6 and 7 of the *Constitutum Constantini*, in the Latin printed in Christopher B. Coleman's edition and translation of Lorenzo Valla's *Discourse on the Forgery of the Alleged Donation of Constantine* (1922), which is out of copyright and available in full; and, for comparison, the conveyancing formula of the *Liber Pontificalis*, Life of Stephen II, in Duchesne's edition, already quoted at length in the account of the founding.

Paraphrased and credited to modern scholarship and to standard reference works: the legal structure of emphyteusis in Roman and canon law, including the alienability and testamentary transmissibility of the emphyteuta's interest and the two-year non-payment rule for church land; the finding that by the later sixth century much of the papal patrimonial land was held on emphyteusis for the life of the cultivating lessee and two successive heirs, and that Gregory the Great intervened to protect the heirs of deceased lessees against the agents of his own church, which I take from recent work on Gregory's property policy in *Early Medieval Europe*; the observation, standard in the reference literature on the alienation of church property, that the characteristic leakage of ecclesiastical land was not outright sale but easy tenure — perpetual emphyteusis, *beneficium*, *precarium*, *ius colonarium* — under which laymen took the use and profit while the church retained a title that did very little; the capture of the papal office by the Theophylact, Crescentii and Tusculan families in the tenth century; the persistence of the small Lombard countships and marquisates within the nominal Papal States; the creation of the curial office of cardinal-nephew by Pius V on 14 March 1566, and its abolition by Innocent XII in *Romanum decet Pontificem* of 22 June 1692, with its provisions as summarised in the reference literature — the ban on granting estates, offices or revenues to relatives, the single permitted cardinal relative "if otherwise suitable", and the cap of twelve thousand *scudi*; and the statistic that of the eight popes of the eighteenth century only three failed to raise a nephew or brother to the cardinalate, two of those three being members of religious orders.

On the dating and use of the *Constitutum*, which is load-bearing here: the finding that it did not influence papal policy under Charlemagne, that it appears first in Frankish collections including the false decretals and a Saint-Denis manuscript, that the earliest certain quotations are Frankish and belong to the second half of the ninth century, that it was not used in the papal chancery before the mid-eleventh century, and

that the first certain use at Rome was by Leo IX in 1054, rests on the tradition of scholarship running from Gerhard Laehr in the 1920s through Horst Fuhrmann, as summarised in the recent historiographical review of the debate published in *Historia* (2023) and in the older reference literature. Fuhrmann's stronger claim — that the papacy made no substantial public use of the document until the pontificate of Gregory IX (1227–41) — is reported here as his position rather than adopted, since this study has not tested it against the thirteenth-century material.

Flags. The date and place of composition of the *Constitutum* are genuinely unsettled: the majority view puts it in the Lateran in the 750s or 760s, a Frankish origin has been argued from the nineteenth century to the present, and some reconstructions divide the text into an earlier core and a later grant; nothing in this module's argument depends on which is right, but readers should not take the Roman dating as established. The word *pornocracy* is a coinage of later polemic and is used here only because it is the label under which the tenth-century Roman situation is indexed; it is not adopted as a description. The figures on cardinal-nephews are counts of appointments, which are well recorded, and not estimates of what the families extracted, which are not. And the statement that Innocent XII said the poor were his nephews is reported as it stands in the reference literature; I have not traced it to a contemporary source and it is quoted here as a report rather than as his words.

MODULE 3

# A Canonry in the Lateran

*The robe — the chain of documents that manufactured a prior title, the scholar who took it apart in 1440, and why an order ran another four hundred and thirty years on a warrant its own household had read*

## The test this case exists to run

A robe is the account of an arrangement that makes the arrangement cheap to maintain. Force alone is expensive: it requires men who must be paid, watched and replaced, and it produces compliance only where it is standing. A story that persuades people the arrangement is rightful produces compliance where nobody is standing at all, and it does so for two quite different audiences by two quite different mechanisms. The mass are held by belief: the hierarchy comes to feel like the shape of the world rather than an arrangement made by somebody. The armed and administrative few need believe nothing; they need only expect that the others will act as though it were true, which is why the whole apparatus of ceremony exists — not to inform each participant but to let each see that all the others are being informed at once.

From which follows an obvious prediction, and it is the prediction this module exists to test. If a robe is what makes an order cheap, then destroying the robe should make the order expensive. Show the governed that the story is false and the belief that ran the machine should stop running it. Show the elite that the story is false and the expectation each holds about the others should collapse, because the whole point of a focal point is that it is conspicuous and shared, and a thing publicly known to be a fabrication is neither.

This order provides the cleanest test of that prediction available anywhere in the record, because its founding warrant was not merely suspect but **demonstrated to be a forgery**, in writing, by a first-rate scholar, with arguments that have never been answered and never needed revising, in 1440. And the order ran for another four hundred and thirty years.

That is the module's problem. Before it can be addressed, the robe has to be described — and the first thing to say about it is that it was never one document.

## The chain

Nobody sat down and forged the temporal power of the papacy. It accreted, over four centuries, in at least four distinguishable stages, each of which solved a problem left by the one before, and each of which was made by different hands for different reasons.

The substrate is a **legend**, and a legend is not a forgery. By the end of the sixth century there existed at Rome a story about Sylvester, bishop of the city in Constantine's time: that the emperor had contracted leprosy, that Sylvester had baptised him, and that the baptism had cured him. The scholarship that traced its development — Döllinger's and Duchesne's — showed that this narrative was in circulation long before anybody thought to attach a legal instrument to it, and that it supplied the forger with the whole of his background. It was read aloud in churches on Sylvester's feast day. Valla, four centuries later, would report that a thousand old manuscripts of it existed and that it was recited in nearly every cathedral church.

The second stage converts the story into an instrument. The *Constitutum Constantini*, probably written in the Lateran in the 750s or 760s, takes the legend's gratitude and gives it a documentary form: an imperial decree, with a granting clause, a recital, a sanction, an anathema against violators, and a closing statement that the emperor laid the parchment with his own hands on the body of St Peter. It was drafted, as the settlement has already established, to fill a hole that nobody was yet probing — and it then sat unused for the better part of three centuries.

The third stage is publication, and it happened somewhere else. Around 847 to 853, in Francia, an enormous body of fabricated canon law was assembled under the name of Isidore: hundreds of papal letters, conciliar canons and decretals, most of them invented, designed largely to protect bishops against their metropolitans and against lay interference. The *Constitutum* travelled inside that corpus. It is not too strong to say that the Donation of Constantine was published to the Latin world as a passenger in the largest documentary fabrication of the Middle Ages, which was itself made by parties whose quarrel had nothing to do with central Italy.

The fourth stage is naturalisation into law. From the Pseudo-Isidorian collection the text passed into the canonical collections of the eleventh and twelfth centuries — Anselm's, Deusdedit's — and finally into Gratian's *Decretum*, the work that organised the whole of western canon law and became the textbook of every jurist in Europe. But it entered Gratian by a side door, and the side door matters. It is there as a ***palea***: one of the additions made by later hands to the master's text, marked as such, absent from the oldest manuscripts. Valla knew this and used it, with the obvious joke: he wanted to drag into court the forger himself, *palea* truly and not wheat.

And then it was used. It was cited, on the count available in the standard literature, by at least ten popes, and it was accepted as genuine, more or less universally, from the ninth century to the fifteenth.

The point of laying the chain out in stages is that it explains a property the robe would not otherwise have. **Nobody built this, and that is why it was hard to attack.** A single fraud has an author, a date and a motive, and can be assaulted at all three. A sediment laid down over four hundred years by a legend-teller, a Roman clerk, a Frankish canonist and a Bolognese law student's marginal addition has the texture of a tradition. By 1200 the claim was not a document anybody had produced; it was a thing everybody had always read. That is what naturalisation looks like from inside, and it is not less genuine for having a history.

## Who the robe was cut for

The framework's standing question about any robe is whose belief it needs, and the answer here is unexpected and worth stating carefully.

It did not need the belief of the governed. The population of the Papal States, and of Latin Christendom generally, obeyed the church for reasons that had nothing whatever to do with Constantine. Their Christianity was the naturalised residue of a build made in the fourth century and fully taken by the sixth — the furniture of reality, not a proposition anybody was weighing. A farmer near Viterbo did not require a decree of 315 to think that the pope was the pope. He would not have been able to read it and had almost certainly never heard of it.

The *Constitutum* was cut for a completely different audience: **literate rival claimants**. Emperors and their lawyers. Kings with quarrels over investiture, over appeals, over the immunity of clergy, over the boundaries of Italian provinces. Canonists arguing before canonists. Everything about the document's register confirms this — it has a dating clause, a subscription, an anathema, a formal deposit; it is drafted to be *produced*, in a dispute, against somebody with an opposing brief.

Call this an **appellate garment**, and mark the distinction as a genuine addition, because the framework has been treating warrants as though they were all addressed to the same place. A warrant addressed to the ruled and a warrant addressed to rivals do different work, decay by different routes, and are vulnerable to entirely different attacks. The first dies when the ruled stop believing it, which is a slow social process that no argument can accomplish on its own. The second dies when a rival's lawyer reads it carefully. Only the second thing happened to this document, and the consequences of confusing the two have distorted every popular account of what Valla did.

## Cusa first, and then Valla

Doubts about the *Constitutum* were not new in 1440. They had been raised, on and off, since about the year 1000. And the decisive philological work was begun not by Valla but by a churchman, seven years earlier: Nicholas of Cusa, in *De concordantia catholica* of 1433, written in the atmosphere of the Council of Basel, covered part of the same ground — in the judgement of Valla's own modern editor, better than Valla did — and anticipated several of his arguments. Cusa went on to be made a cardinal.

Valla's treatise is nevertheless the one that settled the matter for the world, and the reason is partly that it is more thorough and mostly that it is a devastating piece of writing. It is also, and this should be stated at the front rather than discovered later, **a paid brief**.

Lorenzo Valla wrote the *Declamatio de falso credita et ementita Constantini donatione* in 1440, while employed as Latin secretary to Alfonso of Aragon, king of Naples and Sicily, who was at that moment in a territorial quarrel with Pope Eugenius IV and needed the papal claim discredited. Valla's editor puts it plainly: the work may well be considered part of the campaign the king was conducting against the pope. There is no need to soften this and no advantage in doing so. The interest is obvious, it was obvious at the time, and the argument survives it entirely — because the argument consists of checkable claims about the Latin language and the Roman constitution, and checkable claims are not damaged by the motives of the man who checks them. That a lawyer is paid does not make the deed a good one.

## What Valla actually did

He knew what he was doing and he opened by saying so. He was writing, he said, not only against the dead but against the living, not against one or two but against very many, not against private men but against magistrates — and what magistrates:

> *Nempe summum pontificem, qui non temporali solum armatus est gladio, regum ac principum more, sed ecclesiastico quoque, ut ab eo neque subter ipsum, ut sic loquar, clipeum alicuius principis protegere te possis, quominus excommunicatione, anathemate, exsecratione feriare.*
> *Namely the supreme pontiff, who is armed not only with the temporal sword after the manner of kings and princes, but with the ecclesiastical also, so that from him you cannot shelter yourself, so to speak, under the shield of any prince, from being struck with excommunication, anathema and curse.*

Someone prudent, he adds, once said he had no wish to write against men who could proscribe. And then the charge, which is stated without any hedging at all:

> *Nam aliquot iam saeculis aut non intellexerunt donationem Constantini commenticiam fictamque esse, aut ipsi finxerunt, sive posteriores in maiorum suorum dolis vestigia imprimentes pro vera quam falsam cognoscerent defenderunt.*
> *For some centuries now they have either not understood that the Donation of Constantine was made up and feigned, or they themselves feigned it, or else later men, treading in the footprints of their elders' deceits, have defended as true what they knew to be false.*

The argument is then laid out in four heads, and the order is a lawyer's order: that neither Constantine could lawfully have given nor Sylvester lawfully have received; that even had they been able, no possession was ever transferred and the property remained always with the emperors; that what was in fact given was given by an earlier pope's benefactor and was modest; and that the text is not where it is claimed to be found, and contains things contradictory, impossible, stupid, barbarous and ridiculous.

The fourth head is what he is remembered for and it is the birth of a discipline. He goes through the document's Latin like a man reading a bad translation.

There are **satraps** in it, sitting in a Roman council. *Quis umquam satrapes in consiliis Romanorum nominari audivit?* — who ever heard of satraps being named in the councils of the Romans? He does not recall ever having read of a satrap in any Roman context at all, nor even in a Roman province.

There is **Constantinople**, named as one of the four patriarchal sees — in a document dated three days after Constantine's baptism:

> *Quid, quod multo est absurdius, capitne rerum natura, ut quis de Constantinopoli loqueretur tamquam una patriarchalium sedium, quae nondum esset nec patriarchalis, nec sedes, nec urbs Christiana, nec sic nominata, nec condita, nec ad condendum destinata?*
> *And what is much more absurd — does the nature of things permit that anyone should speak of Constantinople as one of the patriarchal sees, when it was not yet patriarchal, nor a see, nor a Christian city, nor so named, nor founded, nor even intended for founding?*

And then the kill, which is that the forger contradicted himself inside his own document, because the later clause has Constantine announcing that he *will* transfer his empire eastward and *will* build a city there. If he meant to transfer it, he had not yet transferred it. If he meant to found the city, he had not yet founded it. So the same

instrument names a see that its own text says does not exist yet. Valla supplies the proverb: *Mendaces memores esse oportere* — liars need good memories.

The geography is wrong in every direction. **Byzantium** was a town, and the document calls it a province. **Thrace**, where Byzantium stood, is placed in the east when it faces north. **Judaea** is listed as a going concern under a name that had ceased to exist after the destruction of Jerusalem. The four quarters of the world are enumerated and the provinces assigned to them do not fit.

The vocabulary is worse, and this is where Valla is at his most withering, because the forger keeps explaining words to an emperor who would have known them. He glosses *diadema* as "that is, a crown" — and he thinks a diadem is made of gold, when a diadem was cloth. He writes ***phrygium***, and *quis umquam phrygium Latine dici audivit?* He writes ***banna*** for standards, and Valla stops:

> *At "banna" quid sibi velit, non invenio. Deus te perdat, improbissime mortalium, qui sermonem barbarum attribuis saeculo erudito!*
> *But what "banna" is supposed to mean, I cannot discover. God destroy you, most wicked of mortals, who attribute a barbarous speech to a learned age!*

He does not know what a *lorum* is — it is a leather strap, a rein — so he has one hung round the emperor's neck as an ornament, and, says Valla, in wanting a rein round the neck of Caesar and of Sylvester, out of a man, an emperor and a supreme pontiff he makes a horse or an ass. And Constantine is called a **king**: *Imperator Romanorum erat, non rex. Ubi rex est, ibi respublica non est.* He was emperor of the Romans, not king. Where there is a king, there is no commonwealth.

That much is philology, and it is the part every summary reports. The two arguments that are sharpest are not philological at all, and they are the ones a modern historian would still reach for first.

The first is **the absence of possession**. Valla asks the question a conveyancer asks: *Ubi possessio? Ubi in manus traditio?* Where is the possession? Where the delivery? A grant of empire is not a piece of parchment; it is the removal of one set of magistrates and the installation of another. So — who did Sylvester appoint to the provinces? What wars did he fight? Whom did he tax? By what officers did he administer? And when he was dispossessed, who dispossessed him, in what year, with what bloodshed, against what resistance?

> *Nihil horum scimus, respondetis. Ita puto, nocturno tempore haec omnia gesta sunt, et ideo nemo vidit.*
> *We know none of these things, you answer. So I suppose it was all done at night, and that is why nobody saw it.*

We know, he goes on, how many kings and consuls and dictators and tribunes and censors and aediles Rome had, across the whole of its antiquity, and not one of them escapes us. We know the generals of Athens and Thebes and Sparta and every one of their battles by land and sea. We know the kings of the Persians and the Medes and the Chaldaeans and the Hebrews and how each of them got his kingdom and held it and lost it and recovered it. But how the Roman — or Sylvestrian — empire began and ended, and when, and by whose hands, is unknown even in Rome itself.

> *Putes in silvis inter arbores regnasse Silvestrum, non Romae, et inter homines; et ab hibernis imbribus frigoribusque, non ab hominibus eiectum.*
> *You would think Sylvester reigned in the woods among the trees, and not at Rome among men; and that he was driven out by winter rains and frosts, and not by men.*

The second is **the absence of coins**, and it is the argument of a modern historian four hundred years early. Whoever held the empire at Rome had to strike his own coinage; that was simply what holding it meant. Gold coins of Constantine and of nearly every emperor after him survive in quantity, many of them, Valla says, in his own possession. Of papal coinage from that period there is none — not gold, not silver, and no record of anyone ever having seen any. He adds the medium itself: the Twelve Tables were cut in bronze and were found undamaged after the Gauls burned the city; the treaty of Judas Maccabaeus with Rome was cut in brass and carried to Jerusalem; but the donation of the whole world was signed *papyro tantum et atramento* — on paper only, and ink.

He closes the technical case by noting that the passage is not in the oldest manuscripts of the *Decretum*, that Gratian did not put it there, and that the man who did was of no authority whatever; and that if the thing were in the *Acts of Sylvester*, as the interpolator claims, then somebody would have found it there, since the *Acts* were read aloud annually in nearly every cathedral in Europe — *nemo se illic legisse istud ait quod tu affingis, nemo audisse, nemo somniasse*: nobody says he has read there what you invent, nobody has heard it, nobody has dreamt it.

And in the middle of it he turns and addresses the reigning pope by name — *et te, Eugeni, qui vivis* — and asks him why he goes about boasting of the Donation of Constantine and extorting acknowledgements of subjection from the emperor at his coronation and from the king of Naples, when no ancient bishop of Rome ever did any such thing.

## The other half of Valla, which the summaries omit

One thing has to be said about this treatise that the standard account of it — humanism versus superstition, criticism versus credulity — gets badly wrong, and the discipline of this collection requires saying it.

The longest single passage in the *Declamatio* is not an attack. It is an imagined speech, put into the mouth of Sylvester, refusing the gift. Valla has the pope decline the empire on grounds that are entirely and seriously Christian: that Elisha would not take a fee for curing Naaman, and shall a pope take kingdoms; that Christ's kingdom was not of this world; that he who would be greatest must be servant; that the apostles said it was not right that they should leave the word of God and serve tables, and how much greater a departure it is to levy taxes, manage a treasury and pay soldiers; that our power is the power of the keys and nothing can be added to it, and whoever is not content with that is asking for something else from the devil, who also offered the kingdoms of the world. And the speech ends where the argument had to end: *Reddite quae sunt Caesaris Caesari; et quae sunt Dei Deo.*

Valla was a priest. He was arguing that the temporal power was not merely unproven but improper — that it had corrupted the office and that the office would be better without it. This is a reformer's argument made from inside the institution, in its own vocabulary, using its own scriptures, and it is the reason the treatise reads as it does. Treating it as an exercise in debunking mistakes both the man and the case. The doctrine he was attacking had been built by serious minds over centuries and believed by people who were not fools; the attack was made by a man who held the same faith and thought the doctrine was disgracing it.

## What happened to him

Nothing much, and eventually a great deal of the wrong kind.

Valla was in real danger in these years, but not for this. In 1444 he was summoned before an inquisitorial tribunal at Naples over a different matter — a public statement about the composition of the Apostles' Creed — and Alfonso intervened to have the charges dropped. In the same year he went to Rome, where his enemies were numerous, and saved his life by leaving in disguise for Barcelona.

Eugenius IV died in February 1447. Valla, who had by then written the reigning pope an apology for his faults with a promise of amendment, went back to Rome and was welcomed by the new pope, Nicholas V, a humanist who wanted Greek historians translated into Latin. In 1448 Valla was made *scriptor*, and then apostolic secretary.

Nicholas's successor Calixtus III gave him a canonry in the basilica of St John Lateran, which he held until his death in 1457.

The man who demonstrated that the founding deed of the papal temporal power was a forgery, and who addressed the reigning pope by name in the course of doing it, ended his life as an officer of the papal chancery, holding a benefice in the Lateran — which is the palace the deed purports to convey, named in its second clause.

## Why nothing happened

Now the module's real question. A robe was publicly destroyed, its destroyer was hired, and the order continued for four and a third centuries. Why did the prediction fail?

**Because the document had stopped being load-bearing.** This is the largest reason and it is a matter of law rather than of belief. The settlement has already established that the *Constitutum* was drafted in the eighth century and not produced at Rome until 1054. By 1440 the popes had held central Italy, with interruptions, for some seven hundred years, and they held it by the ordinary means — treaties, fortresses, condottieri, legates, taxation, and the accumulated weight of undisturbed possession. **Long possession is itself a title**, in Roman law, in canon law and in every system descended from either. A prior deed matters intensely while possession is contested and matters not at all once possession is old, because at that point the deed has been superseded by the fact it was drafted to explain.

The most striking evidence that this is the right reading is that Valla knew it, and tried to close it. His last two heads of argument are not philological and are usually skipped: that even supposing Sylvester had possessed and been dispossessed, the claim could not be revived after so vast an interval by any law human or divine; and that nothing held by the supreme pontiff could be protected by prescription. He was, in other words, arguing directly against the mechanism that had already made his central case irrelevant. He knew perfectly well that proving the deed false does not recover the land, and he tried to get round it, and the attempt did not work because the doctrine of prescription is not vulnerable to philology.

**Because the robe was stacked.** Where a claim must satisfy several audiences it acquires several warrants, and by the fifteenth century the papal claim rested on a stack: the Petrine commission in Matthew, which no document criticism could touch; the *plenitudo potestatis* worked out by two centuries of canonists; the decisions of councils; the practice of Christendom; the simple fact of possession; and, somewhere well down the list, Constantine. Knock out one layer of a stacked robe and the load transfers to the others.

State that as a finding, because it generalises: **a stacked robe is not merely redundant against attack, it is antifragile against document criticism specifically.** Textual refutation, by its nature, finds the layer that is *most vulnerable to textual refutation*, which is to say the weakest one — a document with a date, an author and a chain of transmission. It cannot touch a warrant that consists of a scriptural verse everybody already accepts, or of the bare fact that a thing has been so for seven hundred years. So the predictable effect of exposing a forgery inside a stacked robe is that the claim sheds its most brittle support and re-seats on its more durable ones, and looks, to an observer, no different afterwards.

**Because the audience for the document was not the audience for the order.** The *Constitutum* was an appellate garment, addressed to rival claimants and produced in argument. Its exposure altered the state of a legal dispute among a few hundred literate men in Italy and Germany. It did not, and structurally could not, touch the belief of the millions, because the millions had never heard of it and their obedience had never rested on it. A refutation reaches exactly as far as the claim it refutes.

**And because the institution absorbed it.** The collection already carries this as a distinct answer to dissent: hold the inquiry, publish the finding, punish nobody, and let the fact become old — at the cost of a permanent record. This case supplies its strongest form. **The most complete absorption is employment.** A hostile finding is dangerous chiefly while its author stands outside the institution, because outside he is a party and his finding is a weapon; bring him inside, pay him, and the finding becomes a piece of the household's own learning, which the household may be said to have known all along.

The honesty required here is to notice that this may have been substantially accidental. Valla was not hired *for* the *Declamatio*. He was hired despite it, by a bibliophile pope who wanted Herodotus and Thucydides in Latin, after the pope he had attacked was safely dead, and after Valla had written that pope a letter of apology promising to behave better. Whether anyone in Rome decided that absorbing him was the intelligent move, or whether a book-collecting pope simply wanted the best Latinist in Italy and did not much care what he had written for the king of Naples, the sources do not say. The mechanism worked either way, which is what makes it a mechanism rather than a policy.

## What the disproof did do, on a delay

The null result should not be overstated, because the treatise was not inert. It was dormant.

Valla's text circulated in manuscript and did comparatively little. In 1517 Ulrich von Hutten printed it. It reached, among others, Luther, and the discovery that the founding deed of the papal temporal power was a fabrication contributed powerfully to a revolt that the treatise itself had not caused and that its author would very likely not have wanted. The same argument that had been survivable as a courtier's brief against a territorial claim was not survivable as a printed pamphlet inside a confessional war.

Which produces the module's cleanest symmetry, and it is worth carrying:

**The forgery was composed three centuries before there was a market for it. The refutation was composed seventy-seven years before there was a press for it.** Both sat in an archive waiting for a conflict that would give them force. Neither's effect can be read off its date of composition, and neither's author knew what his document would eventually be for.

## Reading the robe against the framework

Five findings.

**The appellate garment.** Warrants are not all addressed to the same place, and the framework has been treating them as though they were. A warrant addressed to the ruled works by belief, decays socially, and is essentially invulnerable to argument — one does not refute the furniture of reality. A warrant addressed to rival claimants works by evidence, is produced in disputes, and can be destroyed by a competent reader in an afternoon. The *Constitutum Constantini* is entirely the second kind, which is why its destruction was so complete and mattered so little. The diagnostic question to add to the standing set is: **who is this warrant drafted to be shown to?** Look at the register. A document with a dating clause, a subscription and an anathema is for a courtroom. A ceremony in a cathedral is for everybody.

**A stacked robe is antifragile against document criticism.** Textual attack necessarily locates the layer most exposed to textual attack, which is the weakest layer; the claim then re-seats on warrants that have no author, no date and no chain of transmission to impeach. So the visible consequence of exposing a forgery inside a mature stack is that the order sheds its most brittle support and carries on looking the same. The corollary for anyone attacking such an order is unpleasant and true: **the document you can disprove is, for that reason, the one that matters least.**

**Prescription eats the founding instrument.** Long undisturbed possession is a title in its own right, and once it has matured the founding deed has been superseded by the fact it was written to explain. There is therefore a window — early, while possession is contested — during which a refutation would be lethal, and after which it is

archaeology. Valla arrived some four centuries after the window closed, and knew it, which is why two of his four heads of argument are attempts to defeat prescription rather than to defeat the document. **Watch for the moment a founding document stops being produced in arguments; that is the moment its refutation stops being dangerous.**

**Absorption's strongest form is employment.** A finding is a weapon while its author is a party and becomes scholarship when he is a colleague. The cost is the one the collection has already identified — a permanent record, which is why the treatise was available to be printed in 1517 — and the caveat is that the absorbing institution need not have intended any of it.

**A dormant refutation is a weapon in storage, on the same terms as a dormant forgery.** Both of the documents at the centre of this study were made long before the conflicts that gave them force, and in both cases the interval was measured in generations. The general form: **the date a document was made tells you what its maker needed; the date it was used tells you what somebody else needed later, and the second is usually the more consequential of the two.**

One last thing, and it is the discipline the collection insists on rather than a finding. The robe examined in this module was a forgery, and the module has said so in the plainest available terms. It does not follow that the order it clothed was a fraud, or that the people who lived inside it were deceived, or that the doctrine was cynical. The *Constitutum* was one brittle plank in a structure most of which was neither forged nor false, argued over a millennium by first-rate minds, and held with complete sincerity by hundreds of millions of people including, at the end of his life and in receipt of its stipend, the man who took the plank out. Naming a built thing as built is not debunking it. That a founding document was forged makes the founding document a forgery. It does not make the eleven hundred years a lie.

## A note on sources.

Quoted exactly, in the original Latin with translations of my own, from Lorenzo Valla's *De falso credita et ementita Constantini donatione declamatio* (1440), as printed in Christopher B. Coleman's edition of the Latin text with English translation (Yale University Press, 1922), which is in the public domain and whose Latin is based on Codex Vaticanus 5314, dated 7 December 1451, collated against Ulrich von Hutten's editio princeps. The passages quoted are: the opening on the ecclesiastical sword; the charge that the popes either did not know the Donation to be fabricated, or fabricated it, or defended as true what they knew to be false; on satraps in a Roman council; on Constantinople as a patriarchal see that did not yet exist, with the proverb that liars

need good memories; on *banna* and the barbarous speech attributed to a learned age; on Constantine as emperor and not king; and on the absence of any delivery of possession, including the passage about Sylvester reigning in the woods among the trees. Where I have summarised Valla's arguments — the diadem of cloth, the *lorum*, the geography of Thrace and Judaea, the absence of papal coinage, the paper and ink, the *palea* in Gratian, the address to Eugenius IV by name, the imagined refusal speech of Sylvester, and the two closing heads on prescription — the summaries are mine from the same text and are not quotations.

Paraphrased and credited to modern scholarship and reference works, principally Coleman's introduction of 1922 and the standard literature: the development of the Sylvester–Constantine legend at Rome by the late sixth century, established by Döllinger and by Duchesne; the incorporation of the *Constitutum* into the Pseudo-Isidorian Decretals of about 847 to 853 and its transmission thence into the collections of Anselm and Deusdedit and into Gratian's *Decretum*; the count of at least ten popes who cited it; its general acceptance from the ninth to the fifteenth century; the priority of Nicholas of Cusa's treatment in *De concordantia catholica* of 1433 and Coleman's judgement that Cusa covered part of the ground better than Valla; the circumstances of Valla's composition in 1440 as secretary to Alfonso of Aragon during that king's campaign against Eugenius IV; the inquisitorial summons of 1444 over the Apostles' Creed and Alfonso's intervention; Valla's flight from Rome in disguise in the same year; his appointment as *scriptor* and then apostolic secretary under Nicholas V in 1448 and the canonry of St John Lateran conferred by Calixtus III, held until his death in 1457; Hutten's printed edition of 1517 and the treatise's effect on the Reformation.

Flags. The claim that the *Constitutum* was composed in the papal chancery under Paul I (757–767) is Coleman's position, supported by the linguistic peculiarities catalogued by Scheffer-Boichorst, and it is one position among several; a Frankish origin has been argued from the nineteenth century to the present, and this study does not adjudicate. The count of ten popes citing the Donation is taken from Coleman and I have not verified it independently. The characterisation of Valla's entry into the curia as "the triumph of humanism over orthodoxy and tradition" is a phrase from the older reference literature and is reported, not adopted. And one thing that would embarrass a tidier argument should be stated: the reading offered here — that the disproof was survivable because the document had ceased to be load-bearing — is a structural inference from the chronology of the document's use, not something any fifteenth-century source says. What the sources establish is that Valla wrote, that he was not punished, that he was hired, and that the order continued. The explanation is mine.

MODULE 4

# All the Faithful of Both Sexes

*Formation — the apparatus that manufactured the belief the warrant was drawn on, why an order with no heirs could afford to form everybody, and the collision that put into every throne in Latin Christendom*

## What formation is, and what it is not

Formation is the most commonly underrated variable in this collection, and the reason is that the word invites the wrong picture. It sounds like propaganda — a message pushed at adults who may accept or reject it, a matter of newspapers and pulpits and persuasion. It is not that, and treating it as that produces a false account of every order it touches.

Formation is what happens to a child. It is the installation, before the age at which anything can be weighed, of the framework through which everything afterwards will be weighed: what the world is made of, what time it is, who the natural authorities are, which sources of information are trustworthy, what counts as a reason, what is shameful, what is owed and to whom. A person does not evaluate his formation. He evaluates *with* it. By the time he is old enough to consider whether the arrangement he lives in is rightful, the equipment he will consider it with has already been supplied by somebody, and the identity of that somebody is a political fact of the first order.

From which follows the observation that governs this module and that most accounts of the subject miss.

**There is no unformed person.** To be unformed is not to be neutral; it is to be feral. Every child in every society is formed by someone, and the only question ever available is *whose* formation holds the field. This has a hard consequence for any order that decides not to do it. Withholding formation does not produce a population of blanks awaiting instruction later. It produces a population formed by whoever was forming them before, which is to say by the order the conqueror thought he had displaced.

The collection has watched this happen at length in the colonial cases. A settler administration declines to form the conquered as its own, because forming them as its own would mean admitting them, and admitting them would mean granting them the standing that formation implies. So it forms a thin stratum of clerks and administrators — enough to run the offices, not enough to constitute a claim — and leaves the rest alone. And the rest are not left alone at all. They are formed, continuously, by the

apparatus that was there first, which now has no competitor and a grievance, and which eventually delivers to the administration a population that is coherent, mobilised, and formed by somebody else. British Kenya is the study where this is set out most plainly, and its finding is that the withholding was not restraint. It was a decision to concede the field.

So the diagnostic question is never *did they form the population?* It is: **who held the field, and what did it cost the order that did the holding?**

This module examines the largest formation apparatus in the corpus, which held its field with unusual completeness for something over a thousand years, and it argues that the reason it could afford to is the same fact that made this order's settlement so hard to construct.

## The book that had to be returned

Before the apparatus, one piece of evidence from entirely outside this case, because it states what is at stake more plainly than anything inside it.

In 1868 a British expedition stormed the fortress of Maqdala in Ethiopia and carried off, among a great deal else, a manuscript. Four years later, on 10 August 1872, Prince Kasa — shortly to be crowned as King Yohannes IV — wrote to Earl Granville at the Foreign Office. He wanted two things back. One was a painting of Christ. The other was a book:

> *Again there is a book called Kivera Negust, which contains the Law of the whole of Ethiopia, and the names of the Shums, Churches, and Provinces are in this book. I pray you will find out who has got this book, and send it to me,* ***for in my Country my people will not obey my orders without it.***

The Trustees of the British Museum agreed, and the manuscript was returned to him on 14 December 1872.

Read that as a statement about power rather than about heritage. Here is a man about to be crowned king, in possession of an army, writing to a foreign government to ask for a physical object — and the reason he gives is not sentiment, not national pride, not the injustice of the taking. It is **operational incapacity**. His orders do not carry without it. The book contained the account of the Solomonic descent of the Ethiopian kings, and the population had been formed to hold that account, and a king who could not produce the book was a man giving instructions that his subjects had no formed reason to obey.

Two further things in the episode are worth holding. The first is that the British had taken it as loot and had no idea what they were holding; they gave it back promptly and without much discussion, because from outside a formation its central instrument looks like an antiquity. The second is that the object was removable. Formation is usually described as though it were atmospheric — a mood, a climate of opinion. It is not. It runs on specific instruments that can be seized, burned, translated, replaced or handed back across a counter, and a ruler who loses them finds out very quickly what they were doing.

## Time

Begin the Latin apparatus with the instrument that is easiest to overlook because it is still running.

For most of the period this study covers, the Roman church owned the units in which Europeans experienced duration. Not commented on them: owned them. The seven-day week with a day of obligation at its head; the year built as a narrative running from Advent through Christmas, Lent, Easter, Pentecost and back; a calendar of saints' days dense enough that most days of the year had a name that was not a number; the hours of the office marking the divisions of the day for anybody within earshot of a bell.

The consequence is administrative and not merely devotional. A tenant did not know that it was the fourteenth of March; he knew it was the week before Lady Day, and Lady Day was when the rent fell due. Fairs, markets, court sessions, terms of service, the opening of the ploughing, the closing of the fishing, the dates on which contracts matured and debts became payable — the entire temporal scaffolding of economic and legal life in Latin Europe was hung on a frame the church maintained. A child learned what time it was from the same institution that told him what the world was.

And then, in the sixteenth century, that institution changed what day it was.

The bull *Inter gravissimas*, issued by Gregory XIII on 24 February 1582, corrected the accumulated drift of the Julian calendar by deleting ten days. Thursday 4 October 1582 was to be followed by Friday 15 October 1582. The days between did not occur. The bull provided that the missing days were not to be counted in reckoning the term of loans or taxes, which is the detail that shows the drafters understood exactly what they were doing to the machinery of ordinary life.

There is a feature of that document which is the whole argument of this study compressed into one instrument's grammar, and it deserves to be set out precisely. **To the clergy, and to those presiding over churches, the bull gives orders. To kings,**

**princes and republics, it asks, exhorts and recommends.** The pope commands the apparatus that forms the population and petitions the powers that govern it. Both registers, in the same document, over the same subject matter.

The petition was refused, and the pattern of the refusal is the evidence this module needs. The Catholic states went over in 1582 and the years immediately after. The Protestant and Orthodox states did not. Britain and its empire held out until 1752, Russia until 1918, Greece until 1923. For a century and a half, an English merchant and a French merchant corresponding about the same cargo dated their letters eleven days apart, and English documents of the period carry double years because England also began its year at Lady Day.

Now notice what was and was not in dispute. **Nobody argued about the arithmetic.** The astronomical case was sound, was known to be sound, and was not seriously contested by anyone competent. Protestant mathematicians could check the computation and did. What was refused was not a calculation but an authority: the right of that particular office to say what day it is. And the refusal ran along confessional lines with almost no exceptions, which is to say along the lines of who had formed whom.

That gives a general diagnostic worth adding to the collection's set. **When a technical standard splits along confessional or political lines while nobody disputes the underlying computation, the standard is not a technical standard. It is a formation instrument, and what is being refused is the right to say what is the case.** You can accept a number from an enemy. You cannot accept his rule about what day it is, because a rule about what day it is is a claim to order your world, and taking it means conceding that he does.

## Existence

The second instrument is the register of persons, and for most of Europe for most of this period there was only one.

A child was entered into the world by baptism and the entry was written down in a parish book. He was confirmed. He was married by the same institution, in a ceremony without which the marriage did not exist in law and the children of it were bastards with no claim to inherit. He was anointed at his death and buried in ground the same institution had consecrated, and the burial was written in the same book. For a thousand years the church did not merely comment on the shape of a life. It was the instrument by which a life was recorded, and outside it a person was unregistered, unmarried, and unburied.

This is worth stating carefully because it explains a great deal that comes later in this study. It is the reason an instrument like interdict — the suspension of the sacraments across an entire territory — was a weapon rather than a gesture. Placing a kingdom under interdict did not chiefly wound people's feelings. It stopped their children from being baptised, their marriages from being contracted, and their dead from being buried, in a society where all three were the only available means of doing those things at all. A population under interdict is a population whose ordinary transitions have been administratively frozen. What made that possible was not the church's coercive power, of which it had very little. It was that the church held the registry.

## The annual audit

The third instrument is the one with no parallel anywhere in the pre-modern world, and it dates from the high point of the order's confidence.

The Fourth Lateran Council met at Rome in November 1215, summoned by Innocent III, attended by something over four hundred bishops and some nine hundred abbots and priors. Its twenty-first canon is known by its opening words, *Omnis utriusque sexus* — all the faithful of both sexes. It required every Christian who had reached the years of discretion to confess all their sins at least once a year to their own parish priest, to perform the penance imposed, and to receive the Eucharist at least at Easter; and it bound the confessor to secrecy on pain of deposition from office.

Consider the reach of that as an administrative fact. **Nothing else in medieval Europe touched every person, individually, every year.** No tax did; taxes fell on households and on land, and were farmed and evaded. No court did; most people never appeared before one. No army did. No survey did; there was one Domesday. Here is a requirement that every adult in Latin Christendom, of both sexes, at every social level, should once a year sit down with a particular named man — who lived in the same village, who had baptised their children and buried their parents — and give an account of the inside of their own head.

And the formative work is not chiefly in the information collected. It is in what the requirement obliges a person to *do before they can comply*. To confess, you must first review your own year, sort your conduct into categories, and decide which items belong in which. The categories are not yours. They are supplied by the institution, taught from childhood, refined by generations of theologians into an apparatus of kinds and degrees. A person who has performed that exercise annually since adolescence has not merely been monitored. He has been trained to run the classification himself, in private, without anybody present — which is the point at

which formation stops being something done to a person and becomes the equipment he thinks with.

Two cautions, and they are not decorative. The first is evidential: the canon states a requirement and not a compliance rate, medieval practice varied enormously by region and period, and any account that treats the whole of Latin Christendom as annually confessed on the strength of a conciliar decree is asserting more than the record supports. The second is a matter of description. From outside a formation, an annual private interview about a person's conduct looks like surveillance, and this module has used the word *audit*, which carries that flavour. From inside it, for most of the people who did it, it was the principal consolation available in a life that had very few — the one occasion on which a person could set down a year's accumulated weight and be told, by someone with the standing to say it, that it had been lifted. Both descriptions are accurate. Only using one of them produces a caricature.

## Language, letters, and the recruiting ground

The remaining pieces can be taken quickly, since the brief for this module is to be selective and the apparatus is very large.

**One language.** For the better part of a thousand years the whole of learned discourse in western Europe was conducted in Latin — liturgy, law, medicine, philosophy, diplomacy, and the correspondence of every educated person with every other. A man from Kraków and a man from Coimbra could argue about anything with no interpreter. That is a formation effect of enormous power, and it belonged to one institution, which taught the language, set its standard, and produced nearly everybody who could read it.

**The schools.** Cathedral and monastic schools first; then, from the twelfth century, the universities — Bologna, Paris, Oxford — whose corporate privileges and licence to teach anywhere ran on papal charters. To be educated in Latin Europe was, for centuries, to be educated inside this apparatus or not at all. The English law of benefit of clergy captures the identification exactly: a defendant could claim exemption from the ordinary courts by demonstrating that he could read, because being able to read was taken to be evidence of being a clerk. Literacy and clerical status were the same category in law, because for a long time they were nearly the same thing in fact.

**And the recruiting ground, which is the hinge of this module.** A celibate clergy has one demographic peculiarity that everything else in this study runs into: **it must recruit every single one of its members, in every generation, from other people's children.** No priest's son inherits his father's orders, because there is no priest's son. The institution therefore has to reach into the general population continuously,

identify boys, and form them — and it has no reason whatever to restrict where it reaches, since there is no incumbent family whose expectations are being disappointed. The tradition of low-born popes is real, if the individual origin stories are often embroidered in the retelling; the structural point does not need them. A body that cannot reproduce itself must adopt, and a body that must adopt cannot afford to be fussy about the parentage of its recruits.

## Why this order could afford to form everybody

Now the finding, and it links this module to the settlement in a way that was not visible from either alone.

The colonial pattern is a decision under a constraint. Formation is withheld because forming the conquered as one's own means admitting them; admitting them means granting them standing; and granting them standing means diluting a settlement whose whole value to its holders is that it passes to their sons. A settler with an estate has an heir, and every man formed into the ruling class is a competitor for his heir's inheritance. So the administration keeps the settlement, forgoes the formation, and pays the difference in garrisons — an expensive, brittle order, running on surveillance because the belief never took, sitting on top of a population that the old formation is quietly continuing to hold.

**This order faced no such constraint, and the reason is the fact that makes the rest of the study difficult.** Its offices were not heritable. Nobody in it had a son whose inheritance could be diluted by admitting a stranger. Forming a peasant boy in grammar, Latin and canon law cost the institution nothing it was preserving for anybody, and returned a literate servant, a defender, and — if he rose — a household with an interest in the whole arrangement. There was no reason to withhold and every reason to form, and so it formed universally: everybody, at some level, and the promising ones all the way up.

State the rule in general form, because it is the module's principal contribution and it is not a fact about the church:

**Formation is withheld in proportion to the heritability of the settlement it would dilute.**

An order that binds through heritable title must ration formation, because every person formed is a potential claimant on a fixed pool that somebody's children are expecting. An order that binds through institutional, non-heritable position has no such pool and can form without limit. Which means the study's central difficulty and this module's central advantage are the same fact seen from two sides: the celibacy that

made the settlement so hard to construct is precisely what made the formation so cheap to extend.

And it shows in the floor. This is the least garrisoned order in the collection relative to what it governed. For most of a millennium the Roman church deployed almost no coercive apparatus of its own anywhere outside central Italy, and yet its writ ran, its dues were paid, its courts were used, its interdicts bit and its calendar was kept from Iceland to Sicily. The collection's standing diagnostic is that surveillance is the tell of a belief that never took. The corresponding tell of a belief that took completely is an order with a warrant, a revenue and a reach, and almost nothing to enforce with.

The honest counter-check belongs here rather than later. This order did eventually build a surveillance apparatus — the tribunals of inquisition, the Index of prohibited books, the machinery of censorship — and it is examined further on in this study. What should be noticed now is *when*. It was built late, and it was built at exactly the moment the formation was first seriously contested by a rival capable of forming people itself. That is not an embarrassment to the diagnostic. It is the diagnostic working: the apparatus appeared when, and only when, the belief stopped doing the job unaided.

## The closed loop

There is a question underneath all of this that the collection has approached from several directions without quite joining, and this is the case where the two halves meet, because here they are held by the same institution.

**The first half.** Belief creates *positions*. An armed competitor cannot be the source of his own title, because a title he issues to himself is only a report on who is currently strongest, and everyone can see it. So title must come from somewhere no competitor can seize, counterfeit or become — and religion supplies exactly that: an office defined by descent, or ordination, or a text no living man may rewrite. This is why conquerors at the height of their power travel to unarmed old men and ask permission for things they have already taken. The value of the document consists in the fact that the recipient could not have written it.

**The second half.** Those positions have that standing *only because a population was formed to grant it*. There is nothing in the nature of things that makes a bishop of Rome a source of title. He is one because millions of people were raised, from infancy, to hold that he speaks with an authority that kings do not have — and a pope whose flock had been formed otherwise would be an elderly man in a large house with a good library. The office is not the source of the belief. The belief is the source of the office.

Put the halves together and you get the proposition this module exists to state:

**A warrant is drawn on formation.** The instrument an office issues is worth what it is worth because of work done downstream, in childhood, across a population, over generations — and the value flows back upstream to the office. A warrant is a draft on an accumulated fund of belief, and somebody had to accumulate the fund.

That closes a loop this study left open at the founding. The consideration for which Pepin took an army across the Alps twice and kept nothing was, on his own sworn statement, the love of blessed Peter and the pardon of his offences — an instrument that could not be repossessed, cost the issuer nothing to produce, and was worth precisely nothing to anybody outside the belief. That last property was why the eastern emperor could not outbid with treasure. This module identifies where the belief came from. It was manufactured, deliberately and at enormous institutional expense, in children, by the same body that issued the absolution.

And here is what makes this case singular in the whole corpus, and it is the thing the collection has been circling.

In every other case, **the source of title and the formation apparatus are different institutions.** The Abbasid caliph could confer lawful authority on Muslim rulers and never captured the interpretation of the religious law, which lay with the scholars. Tughril could hold Baghdad, marry into the caliph's family, and found colleges to train orthodox jurists — and could not become the caliph, because the office was closed by descent. William could depose Stigand, install Lanfranc, and fill the English episcopate with Normans — and could not be pope. This is the permanent second-best of every ruler who lives under a genuine anchor: he cannot author it, and the most he can do is staff the office that reads it aloud.

**The Roman church held both ends of the loop.** It issued the warrant *and* it ran the apparatus that formed the people whose belief made the warrant honoured. It was the mint and the currency at once. No other case in this collection has that configuration, and almost everything peculiar about this order follows from it.

**What the closed loop buys** is immunity from the ordinary mode of capture. Every other source of title in the record is vulnerable to a ruler who takes control of its interpreters — which is why the interpreters are always the first thing a conqueror reaches for, and why the reaching so often works. This one could not be captured that way, because it *was* the interpreters. There was no independent scholarly class holding the reading of the law against it, no separate priesthood to be bought, no rival institution forming the same children differently. To capture the source of title in Latin Christendom you would have had to capture the formation of the entire population, and there was no instrument for doing that short of building a rival church.

**What the closed loop costs** is that the collision becomes structural.

## The collision

Every temporal ruler in Latin Christendom governed a population whose deepest formation terminated somewhere other than himself.

His subject had been taught from infancy what time it was, what the world was made of, what was owed and to whom — and taught it by an apparatus whose apex was a man in Rome, who was held to speak with an authority the king did not have, and to hold the last word on the meaning of the texts from which all authority was said to descend. The subject had also been taught, because it was true and because everyone knew it, that his own king's standing rested on an anointing performed by that apparatus's officers.

Which means the king could not ignore the papacy even if he had wanted to. He needed the warrant — not because he was pious, though he might be, but because **his own subjects had been formed to require it of him**. And needing it meant asking; and asking meant, in some measure and at some moment, submitting.

That is not a moral drama and it is not a story about ambitious clergy. It is an arithmetical consequence of one institution holding both ends of the loop, and it predicts, with some precision, the shape of the political history that follows. It predicts the long war over the appointment of bishops, which was never really a quarrel about ceremony: it was rulers who could not touch the source of title attacking the only part of the apparatus they could reach, which was its staffing. It predicts an emperor standing outside a castle at Canossa. It predicts the recurring pattern in which a monarch at the height of his power finds that he cannot get a marriage annulled.

And it predicts the one solution that ever fully worked, which was not negotiation but **seizure**. A king who could not out-argue the loop and could not out-wait it could break it, by making himself the head of the formation apparatus in his own territory and rebuilding his settlement on the proceeds. That this succeeded — and what it was worth to the men who took the church lands — is established at length elsewhere in the collection, from the tenant's side. What this module adds is the reason it had to be done that way. The loop had no seam to negotiate at. You could not buy the interpreters, because they were the institution. You could only take the whole thing.

## Reading formation against the framework

Six findings.

**There is no unformed person, and this case is the control condition.** The colonial studies established the proposition from one pole: withhold formation and the incumbent formation holds the field, so the conqueror ends up governing a population

that somebody else raised. This is the same proposition seen from the opposite pole — an order that formed everybody, held the field completely for a millennium, and was correspondingly cheap to run. The two together give the variable rather than the anecdote.

**Formation is withheld in proportion to the heritability of the settlement it would dilute.** This is the module's main addition and it explains the colonial withholding without recourse to intention or malice. Rationing formation is what an order does when its bindings are heritable and its pool of holdings is fixed, because every person formed is a claimant on somebody's son's inheritance. An order whose positions are institutional rather than heritable has nothing to dilute and can form without limit — and must, since it can only reproduce by adoption. The corollary for reading any order: **look at what the ruling group is preserving for its children, and you will have predicted how far down it educates.**

**A warrant is drawn on formation.** The value of an instrument of title is manufactured downstream, in childhood, across a population, and flows back to the office that issues it. This joins the two halves of why belief is integral to power — that it creates positions no competitor can forge, and that those positions have standing only because people were formed to grant it — into a single circuit rather than two observations. It also explains why sources of title decay slowly and then all at once: the fund is accumulated over generations and can be drawn on long after deposits have stopped.

**The closed loop, and its price.** Where the source of title and the formation apparatus are the same institution, that institution is immune to the standard capture — no ruler can take its interpreters, because it is its interpreters — and it is in permanent structural collision with every temporal power in its field, because every ruler's subjects were formed to terminate their loyalty elsewhere. The framework should carry this as a configuration to check for, since it predicts both the durability and the conflict from one fact. And it identifies the only exit: not negotiation, which has nothing to negotiate at, but seizure of the apparatus entire.

**The refusal of a calendar is a refusal of authority, not of arithmetic.** When a technical standard splits along confessional or political lines while the underlying computation goes uncontested, what is being refused is the right to declare what is the case, and the standard should be reclassified as a formation instrument. Britain took a hundred and seventy years to accept a correct calculation, and the delay is a measurement of the thing this module is about.

**And formation runs on removable objects.** The Ethiopian episode is the clearest evidence in the record that a formation is not a climate of opinion but a set of

instruments — books, calendars, registers, buildings, a language — which can be carried off in a soldier's kit and handed back across a museum counter. A ruler who loses them discovers what they were doing. An outsider who holds them cannot see it. This is the practical reason formation is so often underrated by the people best placed to observe it: from outside a formation, its load-bearing instruments look like curiosities.

One discipline to close on, because this module is where it is easiest to lose. Everything described here — the calendar, the register, the schools, the annual reckoning — is what every society does to its children, and this one did it on a larger scale and with more consistency than any other institution in European history. It is not a crime to form people; it is not possible to avoid. The content of this formation included the only literacy on the continent, the law that most of Europe still argues in, the universities, the hospitals, and a moral account that a great many people found true and consoling and lived well by. Naming the apparatus as an apparatus is not an accusation against it. The finding of this module is not that the belief was manufactured and therefore false. It is that the belief was manufactured and therefore *real* — real enough that a Frankish king paid for it with a province, and real enough that when a pope deleted ten days from the calendar, half of Europe kept them for a century and a half rather than concede that he could.

## A note on sources.

Quoted exactly from a public-domain primary source: the letter of Prince Kasa, subsequently King Yohannes IV of Ethiopia, to Earl Granville, dated 10 August 1872, as printed in E. A. Wallis Budge's introduction to his translation of the *Kebra Nagast* (1922); the manuscript, British Library Oriental 819, was returned by the Trustees of the British Museum on 14 December 1872. The name of the ruler matters and is often misreported: the letter is Kasa's, not Menelik II's.

Paraphrased and credited to standard reference works and to modern scholarship: the summoning of the Fourth Lateran Council by the bull of 19 April 1213, its meeting on 11 November 1215, and its attendance figures; the content of its twenty-first canon, *Omnis utriusque sexus*, requiring annual confession to one's own priest, the performance of penance, and reception of the Eucharist at least at Easter, with the confessor bound to secrecy — I have verified the canon's incipit and its provisions in the standard reference literature but have not read the full Latin against a critical edition, and no Latin beyond the incipit is quoted here for that reason; the observation, standard in the literature, that this canon confirmed existing practice rather than inventing sacramental confession; the terms of *Inter gravissimas* of 24

February 1582, including the deletion of the ten days between 4 and 15 October 1582, the provision that the missing days not be counted in reckoning loans and taxes, and the bull's differing registers toward clergy and toward civil authorities; and the adoption dates of the reformed calendar, with Britain and its empire in 1752, Russia in 1918 and Greece in 1923.

Flags, and the first is substantial. **The synthesis offered in the section on the closed loop is mine and is not reported from any source.** That the papacy uniquely combined the office of title-conferral with the formation apparatus, that a warrant is therefore drawn on a fund of belief manufactured downstream, and that the resulting collision with temporal power is structural rather than accidental — these are constructions built on this collection's earlier findings about anchors and interpreters, and they should be read as proposals to be tested against further cases rather than as established results. The comparison with the Abbasid caliphate and with Norman England rests on the collection's own prior studies.

Second: the reach of the formation apparatus is asserted here from its instruments and its legislation, not from evidence of compliance, which for most of this period does not exist in usable form. A conciliar canon requiring annual confession of every adult in Latin Christendom is evidence of an intention and of an institutional capacity to legislate; it is not evidence that every adult in Latin Christendom confessed annually, and regional and period variation was very large. Nothing in the argument requires universal compliance, but readers should not take the canon for a census.

Third: the tradition of popes born in artisan or peasant families is real but the individual biographies are frequently embellished in later retelling, and no particular case is relied on here. The structural claim — that a celibate clergy must recruit every member from outside itself — does not depend on any of them.

Fourth, and it would embarrass a tidier argument: this module claims the order was cheap to run because its formation had taken, and points to the lateness of its surveillance apparatus as confirmation. That reading is defensible but it is not the only one available. The order was also cheap to run because for most of the period it had no capacity to be otherwise, having no army worth the name outside central Italy and often not much of one there. Whether an order that could not coerce and did not need to should be credited with the second fact or merely observed to lack the first is a question this study cannot settle from the evidence, and the answer probably differs by century.

MODULE 5

# The Ass and Not the Horse

*The cost column — what compliance cost the ordinary person and what it bought them, why there was nowhere to go, and how an order with no soldiers made other men's kingdoms cheap or expensive to govern*

## Whose ledger this is

This module is not about the hierarchy. It is about the man who ploughs, the woman who spins, the carter, the widow, the journeyman in a town, the small freeholder — the great majority who held no office, owned no jurisdiction, and had no part in any of the transactions the earlier modules have described. They were not consulted about the settlement, they were not parties to the conveyance of 756, and the question this module puts to them is the simplest and least often asked: **why comply?**

The answer is never one thing, and it is worth setting out the terms before applying them, because they trade off against one another and the trade-off is the whole analysis.

There is **benefit**: what does the arrangement actually deliver to this person? Protection, order, relief in bad years, courts that will hear him, a road that is safe. Orders that deliver a good deal to the people at the bottom need to do less of everything else.

There is **belief**: does he hold that the arrangement is right? Not that it is pleasant — that it is *rightful*, that the people above him are the people who properly stand above him. Where that has taken, compliance is not a decision he makes each morning; it is the shape of the morning.

There is **the cost of refusal**: what happens if he does not comply? Fines, seizure, the stocks, the gallows — and also the softer machinery, which is usually more effective: the disapproval of neighbours, exclusion from the ordinary sociability of a small place, the loss of standing that makes a man's word worth taking.

And there is **exit**: can he leave? Is there anywhere to go where the arrangement is better, and can he get there? An order that people can walk away from must offer terms; an order they cannot leave need not.

The relation between these is the point. **Coercion is the residual.** It is what an order has to supply when the other three have not done the work. Where benefit is thin and belief absent and exit available, the cost of refusal must be raised to enormous heights and kept there by an apparatus that must itself be paid for — which is the

expensive, brittle condition the collection has found in the colonial cases and in every order whose story never took. Where benefit is real and belief has taken and there is nowhere to go, an order can govern millions with almost nothing in the way of force.

This module argues that the Latin church, for something like five hundred years, held three of those four terms at close to their maximum, and that this is why an institution with no army to speak of was obeyed from Iceland to Sicily. It then turns to the consequence the ordinary person's ledger had for people at the very top: because the church supplied the cheapness, it could withdraw it, and that is the whole of how a man with no soldiers moved kings.

## The benefit column

Accounts of this order habitually forget that there was one. There was, and it was substantial.

**Relief.** For most of this period the church was the only institution in Europe that fed people who could not feed themselves. The pattern runs continuously from the grain ships of the sixth century through the monastic almonries, the hospitals, the leper houses, the foundling institutions and the parish poor-box. This was neither generous nor adequate by any modern measure, and it was patchy, and it was often administered badly. It was also the only thing there was. A widow in a bad year had one address.

**Courts that would hear an ordinary person.** The ecclesiastical courts had jurisdiction over marriage, legitimacy, wills and defamation, and laypeople brought business to them in very large quantities — not because they were compelled to but because those courts would take a case that no seigneurial court would touch. A woman claiming that a man had contracted marriage with her and then abandoned her had a forum. So did a man whose reputation had been damaged by a neighbour's slander. This mattered most to precisely the people with the least other recourse.

**Sanctuary**, which was a real limit on the summary violence of the powerful, and **the holy days**, which are easy to file under devotion and were in hard fact days not worked. A calendar with a substantial number of obligatory feasts is, from the point of view of a labourer, a schedule of paid holidays enforced against his employer by an authority the employer cannot ignore.

And then the entry that outweighs all the others, and which should be given at some length because it is the strongest single item in the benefit column of any order in this collection.

**The Peace of God.** In the wreckage of the Carolingian order in the late tenth century, with royal authority collapsed across most of what is now France and local castellans making war on each other and on everything between them, the bishops of

Aquitaine began holding councils and issuing decrees. The first was at Charroux in 989. The instrument was the only one the church possessed: excommunication, threatened against anyone who did specified things to specified people.

What is remarkable is the schedule of specified things. Excommunication for attacking or robbing a church. Excommunication for striking an unarmed cleric. And excommunication **for robbing peasants or the poor of their farm animals** — and the canon names the ass, and does not name the horse, because a horse was beyond the reach of a peasant and would not have been there to steal.

That detail is the module in miniature. This is not a general benediction upon peace. It is a schedule of particular property belonging to particular poor people, drafted by somebody who knew what a peasant in the Poitou actually owned, and enforced with the only sanction available against the only class capable of taking it. Over the following decades the protections widened — children, women, then in a synod of 1033 merchants and their goods, then pilgrims — and the movement spread from Aquitaine and Burgundy across most of western Europe within a century. The Truce of God, first proclaimed at Toulouges in 1027, added a temporal restriction on top of the personal one: no private warfare from Wednesday evening to Monday morning, nor on holy days, nor in Lent.

And it was not handed down. Large crowds of ordinary people assembled at these councils, bringing relics with them, and pressed for the peace as the answer to the disorder that was ruining them. The common man appears in this episode as a participant rather than a recipient, which is rare enough in the medieval record to be worth marking.

Structurally, then: an institution with no soldiers used its only instrument to restrain the armed class on behalf of the unarmed, at the request of the unarmed, and got a good deal of it enforced. That belongs in the ledger at full weight, and any account of this order that leaves it out is not describing the thing.

The honest qualifications belong here too. The protections listed church property first and peasants second, and the movement served the church's own interest in not being plundered. They were violated constantly. The peace militias raised to enforce them sometimes became one more armed band in a countryside that had too many. And the whole apparatus decayed as royal and princely justice recovered in the twelfth and thirteenth centuries, which is the ordinary fate of an emergency institution. None of that cancels the entry. It sizes it.

## The cost column

Against which:

**The tithe.** One tenth of produce, owed by everyone, everywhere, enforceable in the church's own courts, without exemption for poverty. It was the single largest regular exaction on an ordinary European after his obligations to his lord, and unlike those obligations it did not vary by manor or by custom or by the bargaining position of a particular village. It was a flat universal levy on subsistence, and it did not fall more lightly on the man with less.

**Fees at every threshold.** A person passed through the institution's hands at birth, at marriage, at childbirth, at death and at burial, and money changed hands at most of those points — offerings, mortuary dues, burial fees, the customary payments to the priest. These were small individually and continuous, which is the most efficient way to take money from people who have very little at any one moment.

**Rent and labour**, for the very large number who lived on church land. The *coloni* of the papal patrimonies and their equivalents across Europe owed the same things to an ecclesiastical landlord that they would have owed to a lay one, and the settlement module has already established that the instrument granting their land to a lessee said nothing whatever about them in either direction.

**And time.** The days of obligation cut both ways. They were days not worked, and they were also days on which attendance was expected and absence noticed.

## Why belief is not a fourth item

At this point the ledger form starts to mislead, and it is better to say so than to keep the accounting tidy.

A ledger implies somebody totting up columns and deciding. For most people under this order, most of the time, that is not what was happening, and the formation module explains why: the belief had fully taken. A person raised inside it did not experience obedience to the church as one option weighed against alternatives. He experienced it the way he experienced the seasons. The question "why comply" has, for him, the same grammatical shape as "why is it Tuesday."

But belief does not cancel the ledger. It sets the **exchange rate** at which every other item is priced. Consider what the withdrawal of the sacraments costs a man who believes they are real, against what it costs a man who does not. The instrument is identical. The injury is unrecognisably different. Belief is what makes a costless sanction devastating, and its erosion is what turns the same sanction into an inconvenience — which, as this module will show, is exactly what happened between 1200 and 1600, and can be watched happening in the record.

So the right statement is not that belief is one of four terms. It is that belief is the medium the other three are denominated in, and an order losing it does not lose one column. It suffers a currency collapse across the whole account.

## Exit

The fourth term is the one this case turns on, and this order's position on it was extraordinary.

In the secular world there were exits, and ordinary people used them. A serf could run, and the practical difficulty of recovering him was considerable. The customs of many towns — later summarised in the maxim that town air makes free — gave a man who had lived inside the walls for a year and a day a claim to freedom that his lord could not easily defeat. One could move to a different lordship on better terms, take service, take the cross, or cross into another kingdom. None of these was easy. All of them existed, and their existence disciplined lords, because a manor emptied of tenants yields nothing.

Against the church there was no exit whatever, and the reason was not that it was policed. **It was that the arrangement was universal.** There was nowhere in Latin Europe to go where things were arranged differently: no parish outside it, no kingdom outside it, no town whose air made a man free of it. A man who found the tithe intolerable could move to a different manor and would pay tithe there. The only positions outside the settlement were the positions of the excluded — Jews and Muslims, who lived inside the floor and wholly outside the arrangement, under protections that were revocable at the convenience of whoever held them, and whose treatment across this period is a subject this study will have to take up rather than gesture at — and heresy, which was not an exit but the construction of a rival formation, and was met accordingly.

An empty exit column is the single most powerful position an order can occupy, and it is worth being precise about why. It is not that people are trapped. It is that the *comparison* is unavailable. A man cannot judge his arrangement to be a bad bargain if he has never seen a different one and cannot imagine where he would go to find it. Universality does not merely prevent departure. It prevents the thought.

Which produces this module's largest finding about the collection's own vocabulary. **Exit need not be geographic, and the geographic form is the weaker one.** The framework has treated exit as movement — can they leave? The more consequential form is a **competitor arriving in the same place**. After 1517, a man in Saxony could live under an entirely different arrangement without moving house. Nobody had to walk anywhere. The alternative came to the village.

That is the largest single change in the ordinary person's cost column in this order's entire history, and it is what the later modules have to account for. An order whose protection was its universality is the order most catastrophically damaged when universality ends, because there is no partial version of being the only one.

## The two levers

Now turn the ledger over and read it from the top, because the ordinary person's calculus is the source of the papacy's power over people who had armies.

The problem to explain is stark. From the eleventh century to the sixteenth, monarchs commanding real military force repeatedly obeyed, or paid enormous prices to avoid obeying, an Italian bishop who could not have put a thousand reliable men in the field. There is no version of this that runs on force. It runs on the fact that **the church supplied the cheapness of every ruler's government, and could stop.**

**The first lever is the blessing.** A king who is anointed, whose rule the church endorses, governs a population that has been told from infancy, and is told again every week by the man they trust most in the world, that obedience to him is right. His taxes are collected against less resistance. His courts are used. His wars find recruits. His edicts are read from pulpits by men whose word carries where a sheriff's does not. None of this appears in his accounts, and all of it is worth an army. He is receiving a subsidy he does not pay for, did not build, and cannot manufacture — because, as the formation module established, the one thing a ruler under a genuine anchor cannot do is author it.

**The second lever is withdrawal**, and it came in two instruments which worked on different targets and should not be conflated.

**Excommunication** cuts an individual out. Applied to a ruler it does something legal and precise, and Gregory VII's sentence against Henry IV, pronounced at the Roman synod in February 1076, states the mechanism in a single clause:

> *On the strength of this belief therefore, for the honour and security of thy church, in the name of Almighty God, Father, Son and Holy Ghost, I withdraw, through thy power and authority, from Henry the king, son of Henry the emperor, who has risen against thy church with unheard of insolence, the rule over the whole kingdom of the Germans and over Italy.* ***And I absolve all Christians from the bonds of the oath which they have made or shall make to him; and I forbid any one to serve him as king.***

That is not a curse and it is not a prayer, although it is framed as one. It is an instrument aimed with great precision at the mechanism by which a medieval king was

actually obeyed — the sworn oath of his own men — and it dissolves that mechanism by declaring the oath discharged. The pope raises no army. He informs the king's army that it is free to go. Gregory's list of powers, set down in his register in these same years, states the claim flatly: that the pope may absolve subjects from their fealty to wicked men.

**Interdict** works on the population instead, and it is the instrument that makes this module's earlier analysis operational. On 23 March 1208 the English bishops, on Innocent III's order, laid a general interdict on England and Wales, because King John would not accept Stephen Langton as archbishop of Canterbury. It lasted six years and three months, until 2 July 1214. Churches were closed. Mass was forbidden. There were no church weddings. The dead were not buried in consecrated ground with religious rites. Only three things were permitted: the baptism of infants, the confession of the dying, and the viaticum.

Notice the exceptions, because they are calibrated with care. The instrument was designed to inflict the maximum civil and social damage while stopping short of the one thing that would have damned the innocent — an unbaptised child and an unshriven death were the two outcomes the drafters would not impose on people whose only offence was living under a particular king.

And notice the mechanism, which the formation module supplies. Interdict does not chiefly injure people's feelings. **It works because the church holds the registry of existence.** It stops a population's marriages from being contracted, its children from being formally entered into the world, and its dead from being disposed of properly, in a society that had no alternative means of doing any of the three. A kingdom under interdict is a kingdom whose ordinary human transitions have been administratively frozen, and the pressure it generates comes from below — from a population that wants its life restored and knows exactly whose obstinacy is preventing it.

So the answer to how a man with no soldiers moved kings is that he was not a rival sovereign competing for the same ground. He was **upstream** of every sovereign, supplying the input that made governing cheap, on terms he set. Call it the **compliance subsidy**. Its leverage is not measured by what the supplier can do to the ruler. It is measured by what it would cost the ruler to govern without it.

## What the levers could not do

The record of these instruments is genuinely mixed, and the failures are more instructive than the successes.

**England did not break.** Six years of interdict, and John did not yield to it. Worse, from Rome's point of view, he profited enormously: with the senior clergy driven into

exile he seized the revenues of their lands and took something on the order of £100,000, less than half of which he ever repaid. The sanction transferred a fortune to its target. What eventually moved John in 1213 was not the state of his subjects' souls but a threatened French invasion, against which submission to Rome bought him a protector; he swore obedience on 13 May 1213, made England a fief of the papacy, was absolved that July, and got the interdict lifted the following summer. The lever worked, but not through the channel it was aimed at.

**And Venice did not move at all.** In 1606 Paul V placed the Republic under interdict over laws restricting the church's acquisition of property and asserting the state's right to try clergy for civil offences. The Venetian clergy very largely ignored the sentence and went on saying Mass. The orders that obeyed it — Jesuits, Capuchins, Theatines — were expelled from the Republic. Venice conceded essentially nothing of substance, and the affair was wound up by French mediation the following year.

Read the difference between 1208 and 1606 carefully, because it contains two findings.

The first is about **belief as the exchange rate**, and it is visible in the gap between the two dates. The identical instrument was devastating in one century and inert in another, and nothing about the instrument changed. What changed was the price at which the currency traded.

The second is structural and sharper. **A sanction that must be executed by people the target can reach is not a sanction against the target.** An interdict is not self-executing. It is executed by the parish clergy of the territory concerned — men who live under the ruler's jurisdiction, hold land at his sufferance, and have families where he can find them. In England in 1208 they obeyed Rome and the interdict bit. In Venice in 1606 they obeyed the Republic and it did not. Which means the entire lever ran through the staffing of the local formation apparatus, and any ruler who had captured that staffing had already broken the lever before it was pulled.

That is the investiture struggle seen from the far end. The two-century fight over who appointed bishops looks, from inside, like a quarrel about ceremony and jurisdiction. From here it is a fight over the firing mechanism of the only weapon either side had.

## Reading the cost column against the framework

Six findings.

**Coercion is the residual.** The cost an order must inflict is what remains after benefit, belief and the unavailability of exit have done what they can. This order held three of those terms near their maximum for five centuries, and its coercive apparatus

over that period was correspondingly negligible — which is the same observation the formation module made from the other side, now with the mechanism attached. The diagnostic to carry: **when you find an order with almost no enforcement capacity being obeyed at scale, do not conclude that its subjects were docile. Go and find which of the other three terms is doing the work, because one of them is.**

**Belief is not an item in the ledger; it is the exchange rate.** It prices every other entry, which is why the same instrument was catastrophic in 1208 and ignorable in 1606. An order losing belief does not lose one column. Its whole account is redenominated, and sanctions that used to be free become worthless at the same moment that benefits which used to be sufficient stop covering the costs.

**Exit need not be geographic, and the geographic form is the weaker one.** The decisive form is a competitor arriving in the same territory, requiring nobody to move. Universality is the strongest possible position on exit — it forecloses not only departure but the comparison that would prompt it — and it is the most catastrophic thing an order can lose, because there is no partial version of being the only one available.

**The compliance subsidy.** An institution that supplies the cheapness of other rulers' government holds a lever on their budgets that no army answers, because the leverage is not what it can do to them but what it would cost them to govern without it. This is how an unarmed office moved armed men for five hundred years, and it generalises: **find who is supplying the belief that makes a ruler's compliance cheap, and you have found who can make it expensive.**

**A sanction executed by people the target can reach is not a sanction.** The lever always ran through the local clergy, which is why it worked where they answered Rome and failed where they answered the prince — and why the long fight over episcopal appointments was not a quarrel about vestments but a struggle over the firing mechanism. Any analysis of an unarmed authority's power over an armed one should begin by asking who physically performs the sanction and where that person's family lives.

**And the benefit column was real.** The discipline of this collection requires the entry to be made at its true size rather than at the size that suits the argument. An institution with no soldiers used its only instrument to restrain the armed class on behalf of peasants, at the peasants' own request, and named in its decrees the ass and not the horse because it knew which one a poor man owned. That happened. It coexisted with a compulsory tenth levied on subsistence without regard to poverty, and with a settlement that gave the cultivator no rights whatever in either direction — and both of those happened too. Naming the second does not cancel the first, and naming the first does not excuse the second. **Legibility is not pardon, and it is not**

**indictment either.** It is the attempt to say what the arrangement was, in full, to the person who had the least say in it.

## A note on sources.

Quoted exactly from a public-domain primary source in translation: the sentence of deposition and excommunication pronounced against Henry IV by Gregory VII at the Roman synod of 22 February 1076, in Ernest F. Henderson's translation in *Select Historical Documents of the Middle Ages* (London: George Bell and Sons, 1896). No Latin is quoted, since I have worked from Henderson's English rather than from the *Registrum*; readers checking the original should expect the standard editions to number it differently.

Paraphrased and credited to standard reference works and to modern scholarship: the canons of the Council of Charroux of 989, including the excommunication of those who rob peasants or the poor of their farm animals and the naming of the ass rather than the horse; the extension of the protections to children, women, and — at a synod of 1033 — to merchants and their goods; the Truce of God first proclaimed at Toulouges in 1027 and its suspension of private warfare from Wednesday evening to Monday morning and on holy seasons; the popular character of the peace assemblies; the jurisdiction of the ecclesiastical courts over marriage, testament and defamation and the volume of lay business they attracted; the general interdict laid on England and Wales on 23 March 1208 and lifted on 2 July 1214, with the permitted exceptions of infant baptism, the confession of the dying and the viaticum; John's seizure of ecclesiastical revenues during the interdict, his submission on 13 May 1213, his absolution that July, and the part played by the threatened French invasion; the interdict laid on Venice by Paul V in 1606, the refusal of most Venetian clergy to observe it, the expulsion of the orders that did, and its settlement by French mediation in 1607; the clause in Gregory VII's register asserting that the pope may absolve subjects from their fealty to unjust rulers; and the town customs, later summarised in the maxim that town air makes free, giving a serf resident within the walls for a year and a day a claim to freedom.

Figures and flags. The sum John extracted from church lands during the interdict is given in the literature at about £100,000 with less than half repaid; medieval fiscal figures of this kind rest on partial records and should be read as an order of magnitude rather than an audit. No estimate is offered of tithe yields, of the proportion of the population resident on church land, or of the number of feast days observed, because these varied enormously by region and period and any single figure would be false for nearly everywhere. The Peace of God's effectiveness is genuinely disputed among

historians, with readings running from a substantial restraint on aristocratic violence to a largely rhetorical movement that the armed class ignored when convenient; this module takes the middle position that it was real, partial and decaying, and readers should know the ground moves.

Two things that would embarrass the argument, stated rather than buried. First, the claim that this order needed little coercion because three of its four compliance terms were maximal is not separable, on the evidence, from the simpler claim that it had little coercive capacity available; the same behaviour is consistent with both, and this study cannot fully distinguish them. Second, the reading of the 1208–1606 contrast as a measurement of declining belief is an inference. The Venetian clergy's disobedience is equally consistent with a purely institutional explanation — that the Republic had captured its own clergy more completely than John had captured his — and the module's own structural finding about mediated sanctions in fact points that way. Both explanations are probably true at once, and the module has not established the weighting.

MODULE 6

# They Shall Have No Inheritance

*Extraction — two ledgers, the Papal States and Latin Christendom; where the tenth came from and who made it compulsory; and the sale of a claim on a flow that could not be inspected*

## Two ledgers, and a question about the first entry

This order kept two accounts and they were unlike each other in kind.

The first is ordinary. The Papal States were a territory with subjects, and the popes taxed them the way any Italian prince taxed his: salt, customs, hearths, tolls, subsidies voted under pressure by provincial assemblies, and eventually a funded public debt. Nothing in that ledger requires special explanation, and most of what is in it could be found in Milan or Naples.

The second is not ordinary at all. From populations it did not govern, in kingdoms whose armies it did not command, across a continent it had no capacity to police, this institution levied a tenth of everything grown, took the first year's income of every senior appointment, charged for exceptions to its own rules, and at intervals mounted continent-wide fundraising campaigns whose product was carried to Rome in the accounts of German banking houses. No other body in European history has extracted at that scale from people it had no power to compel.

Before the ledgers themselves, a question about the largest single item in the second one — where the tenth came from. Was the machinery of Christian extraction inherited from Hebrew law or from Roman pagan practice? The answer is more interesting than either option, and it goes to the heart of what this study is about.

## The first-fruits form is everybody's

Take the easy half first. **Offering the first of a harvest to a god is not distinctively Jewish and never was.** Classical Athens took an offering of *aparche* which was a major source of revenue for the temples at Eleusis. Roman religion had its *primitiae*. The Hebrew *bikkurim* of Deuteronomy 26 sits inside the same broad Mediterranean practice: agricultural societies with temples give the temple the first of the crop, and they had all been doing it for as long as there had been crops and temples.

So on first fruits the answer is: nothing was borrowed, because there was nothing distinctive to borrow. The Latin church's harvest offerings belong to a form so widely shared that ancestry cannot be assigned.

**The tithe is a different matter entirely**, and the reason is that the tithe in the Torah is not an offering. It is a fiscal constitution, and it was written for exactly the problem this study was built to investigate.

## What Numbers actually says

Read the operative texts in order, in the English of the Authorised Version, which is out of copyright.

Leviticus fixes the rate and the object:

> *And all the tithe of the land, whether of the seed of the land, or of the fruit of the tree, is the LORD'S: it is holy unto the LORD. (Leviticus 27:30)*

Numbers assigns it, and — this is the passage that matters — states *why*:

> *And the LORD spake unto Aaron, Thou shalt have no inheritance in their land, neither shalt thou have any part among them: I am thy part and thine inheritance among the children of Israel. (Numbers 18:20)*
> *But the tithes of the children of Israel, which they offer as an heave offering unto the LORD, I have given to the Levites to inherit:* ***therefore I have said unto them, Among the children of Israel they shall have no inheritance.*** *(Numbers 18:24)*

And Deuteronomy repeats the settlement in the same terms: the priests, the Levites, and all the tribe of Levi shall have no part nor inheritance with Israel; the LORD is their inheritance.

Attend to the grammar of Numbers 18:24, because everything follows from it. The tenth is not given to the Levites *and, separately,* they hold no land. The tenth is given to them **because** they hold no land, and the verse says so with a *therefore*. The tithe is not piety. It is the explicit substitute for a landed patrimony, supplied to a caste that has been deliberately excluded from the division of the country, and specified in full: who pays, what proportion, of what commodities, to whom, and on what ground.

Which produces the finding this module was built to reach.

**The Torah had already solved the problem this study exists to investigate, and it had solved it in writing, with the reasoning attached.** How do you maintain a body of men who cannot inherit? You give them a percentage of everybody else's produce, and you make the absence of inheritance the stated justification for the percentage.

Set that beside what the earlier modules found. The exported settlement — heritable interests granted to lay families who *could* inherit, with the reversion retained — was an improvisation, worked out under pressure by men managing an estate. The manufactured heir, the nephew given a desk and a title, was a leak that eventually acquired a salary. Those were things this order invented. **The tithe it did not invent. It inherited, along with the book it was written in.** An institution that took over the Hebrew scriptures as the word of God took over, in the same act, a complete and reasoned fiscal apparatus for a priesthood without heirs — and it was under no obligation to notice how exactly the apparatus fitted its own predicament, but it noticed, and it said so continuously for a thousand years. The clergy were the new Levites; the tithe was theirs by the same divine ordinance; the canon lawyers stated flatly that tithes were of divine law, instituted not by man but by the Lord himself.

## And Melchizedek

There is a second node, and it is denser than the first. Three verses in Genesis:

> *And Melchizedek king of Salem brought forth bread and wine: and he was the priest of the most high God. And he blessed him, and said, Blessed be Abram of the most high God, possessor of heaven and earth: and blessed be the most high God, which hath delivered thine enemies into thy hand. And he gave him tithes of all. (Genesis 14:18–20)*

Those three verses supply, in one place, all three of this order's structural peculiarities.

**A tenth is paid to a priest**, and paid out of the spoils of a war, by a patriarch who is under no law commanding it — which is why later canonists could argue that the tithe preceded the Mosaic law and therefore survived its abrogation.

**The recipient is at once a king and a priest.** *Melchizedek king of Salem… he was the priest of the most high God.* One man, two offices, in a single sentence, with no suggestion that the combination is anomalous. Every argument this study will meet about a pontiff who is also a temporal sovereign runs back through this verse.

And then the Epistle to the Hebrews, taking up the same figure, adds the third:

> *Without father, without mother, without descent, having neither beginning of days, nor end of life; but made like unto the Son of God; abideth a priest continually. (Hebrews 7:3)*

*Without descent.* The argument of Hebrews 7 is that this priesthood is superior to the Levitical one, and the ground of the superiority is precisely that the Levitical priesthood ran by genealogy and this one does not. A priesthood that is not transmitted by descent is presented, in the order's own canonical scripture, not as a deficiency to be worked around but as the higher form.

So the institution whose central structural problem was that nobody in it could have a son held, in its foundational texts, a doctrine making the absence of lineage the mark of the better priesthood — and the same three verses that supplied it also supplied the tithe and the priest-king. That is not a coincidence anybody arranged. It is what happens when an order adopts a body of inherited scripture: it finds in it forms that fit, and the forms it finds shape what it becomes.

Two disciplines apply here and both matter. The first is that none of this is evidence of cynical construction. Hebrews was written centuries before there was a Latin church with a territorial problem, and the men who read these passages as describing their own condition were not inventing a justification; they were recognising themselves in a text they already believed. The second is that the selection was nonetheless a selection, and should be named. The New Testament nowhere commands Christians to pay a tithe. To hold that the Levitical tenth binds Christians while the rest of the Mosaic apparatus does not — while also holding, with Hebrews, that the Levitical priesthood has been superseded — is a choice among available readings, and a convenient one. **That is the legal fiction in this module, and it is a fiction about which parts of an inherited law survive.**

## Who made it compulsory, and what that cost

The chronology of enforcement is the module's second finding, and it runs against the expected direction.

The early church had voluntary offerings. The first legislation appears in a letter of the bishops assembled at Tours in 567 and in the canons of the Council of Mâcon in 585, the latter threatening excommunication against those who would not pay. Both documents should be read for what they actually are: **bishops complaining that Christians will not tithe.** Legislation of this kind is evidence of non-compliance, not of compliance.

Then the position changes, and it changes because a king changes it. Pepin the Short, in a letter of about 765 to Bishop Lull, directs that everyone, willing or not, is to pay his tithe. And his son enacted it: **the capitulary issued at Herstal in 779, repeated in 794, is the first imposition of a legal obligation to tithe**, and it is a piece of Frankish secular law. Anglo-Saxon legislation followed the same route, in the laws of

Edgar between 959 and 963, referring back to earlier legislation now lost and probably Alfred's.

**The universal levy of the Latin church was made compulsory by act of a Frankish king, not by act of a pope.** The same dynasty that supplied the floor in 756 supplied the revenue a generation later. Within thirty years the Carolingians had given this order a territory and a tax, and had taken in exchange an answer to a question, an anointing, and a title.

The finding generalises, and it comes with a liability attached.

**An unarmed institution's universal levy requires an armed party to enact it — and what a king's law creates, a king's law can alter.** The church supplied the doctrine, the justification, the parochial machinery and the moral pressure. It did not supply, and could not supply, the bailiff. Having accepted compulsion from the secular power, it held its largest revenue on a title that the secular power had issued and could revise; and the consequences ran for eight hundred years, through lay ownership of tithes, through impropriation, and finally through the wholesale transfer of ecclesiastical revenue to laymen in the sixteenth century, which was accomplished by exactly the same instrument that had created the obligation — a statute.

One honest complication. A strand in the ninth-century material treats tithes not as a sacral levy at all but as **rent for the use of church land** — the Council of Valence in 855 deals with tithe as a payment lessees of church estates had been slack about, and there is material to the same effect in the Pseudo-Isidorian collection. If that strand is primary, the tithe's ancestry is Roman and contractual rather than Hebrew and sacral, and it is a first cousin of the emphyteutic lease rather than of Numbers 18. The scholarship is genuinely divided and this study does not settle it. What can be said is that whatever the tithe's practical origin, **the justification offered was always Levitical**, and the justification is what people paid on.

Which gives the tidy answer to the question this module was set. **The warrant is Hebrew; the machinery is Roman.** The entitlement to a tenth, and the reason a landless priesthood is owed one, came from Jerusalem by way of a book. The instruments that made it collectable and made the proceeds durable — the corporation that never dies, the perpetual lease, the doctrine of prescription, the registry, the chancery, the double-entry accounts of the Apostolic Chamber — came from Rome. Neither half works without the other.

## Ledger one: what was taken from Latin Christendom

Beyond the tithe, which was mostly consumed locally, the flows that actually reached Rome were these.

**Peter's Pence**, an annual payment from England, the Scandinavian kingdoms and Poland, is the item most often misread. As revenue it was trivial — a penny a household, or a lump sum negotiated in lieu. It was not a tax and should not be entered as one. **A nominal render is a tenure marker.** Its function was that it was paid at all: an annual, public, documented acknowledgement of a relationship, whose value to the recipient was the acknowledgement and whose cost to the payer was nothing. What made it worth having is precisely what made it cheap to give, and any analysis that totals it as income has missed what it was for.

**Annates and the *servitia communia***, by contrast, were the serious money: the first year's revenue of a benefice, or a fixed proportion of it, paid to Rome by the man appointed. This is the intelligent tax in the whole system, because it falls on the one thing the papacy genuinely controlled — the appointment itself. Everything else required somebody else's coercion. A bishop who wants his see pays before he gets it, and the leverage is complete.

**Fees of the chancery and the Datary** for dispensations, confirmations, privileges and exemptions — permission to marry within the prohibited degrees, to hold more than one benefice, to be ordained under age, to eat butter in Lent. Note the structure of this revenue, because it is the module's sharpest incidental finding: **the sale of exceptions to one's own law is a stream that grows with the strictness of the law.** An institution earning from dispensations has a standing financial interest in the multiplication of rules from which dispensation is required, and no institution has ever been well served by that incentive.

**Crusade tenths and subsidies**, levied on clerical income across Christendom, and — a late and revealing failure — the Triennial Subsidy of 1543, an attempt at a genuine universal direct tax which never worked as designed.

**And indulgences**, which require their own section.

## Ledger two: what was taken from the Papal States

The territorial account is more conventional and has one extraordinary entry.

The ordinary items are salt, customs, hearth taxes and provincial subsidies. The salt monopoly in particular was the backbone of the state's revenue, as it was of most early modern states, for the reason that everybody must buy salt and nobody can make it at home.

The extraordinary entry is **alum**. Alum was the indispensable mordant of the European cloth industry — without it dye will not fix — and until the middle of the fifteenth century the best supply came from Anatolia, which is to say from the Ottomans. Then, in about 1462, a Paduan named Giovanni di Castro found alunite in

the Tolfa hills, in the pope's own territory, north-west of Rome. His letter to Pius II is preserved in the pope's *Commentaries* and is worth quoting for the register alone:

> *I announce to you a victory over the Turk. He draws yearly from the Christians above three hundred thousand gold pieces for the alum with which we dye our wool... I have, however, found seven hills so stocked with alum as to be nigh sufficient for seven worlds. From them you may supply all Europe... This mineral will give you the sinews of war, which is money, the while it takes them from the Turk.*

What followed is the clearest single demonstration in this study of what happens when the two ledgers meet.

Pius II assigned the alum profits to the crusade — which meant that buying Turkish alum was now, by construction, a way of financing the enemies of Christendom. His successor Paul II declared that anyone trading in Turkish alum would be excommunicated and his property confiscated. On 11 June 1470 the papacy concluded a cartel agreement with Ferdinand, king of Naples, to restrict competition in the sale of alum, complete with provisions to detect defection. The Medici bank handled distribution across Europe. Estimates put the contribution to papal revenue at something in the region of a fifth at its height, and the mines were still being worked in 1796.

**A commercial monopoly, enforced by excommunication.** The instrument that had dissolved an emperor's oaths of fealty at Canossa was deployed, four centuries later, to protect a mining concession's pricing power against a competing supplier. It is not necessary to editorialise about this; it is only necessary to set the two uses of the same instrument beside each other and let the reader do the arithmetic. The earlier module established that belief is the exchange rate at which every sanction is priced. **An institution that spends its sanction on commerce is spending down the fund the sanction is drawn on.**

**Venal offices** belong in this ledger too: posts created in order to be sold, where the purchase price functions as a loan to the treasury and the salary as its interest. This is the benefice's incentive structure — a non-transmissible life interest in a revenue stream — carried through to its logical terminus, with the state now selling the interest directly rather than conferring it.

**And the funded debt.** In 1526 Clement VII created the **Monte della Fede**, the Apostolic Chamber's first *monte*, to raise two hundred thousand gold *scudi* for the war against the Turks. Shares — *luoghi di monte* — were sold to the public and paid interest secured on specified revenues. Further *monti* followed for further emergencies,

and by the seventeenth century the servicing of this debt had become one of the largest charges on the state's income.

The *monti* are the ordinary form of the third extraction fork: the sale, today, of a claim on a flow that does not yet exist. A buyer in 1526 hands over cash and receives a share of the salt duty of 1540. There is nothing sinister in it — it is how every early modern state financed war, it is how modern states finance everything — and its discipline is that the flow being sold is real, is measurable, and will either arrive or visibly fail to.

## Extraction against the future, without a counterparty

Which brings the module to the entry that has no parallel.

Indulgences began as something unremarkable: a commutation of the canonical penance imposed on a confessed sinner — so many days of fasting exchanged for an act of charity, a pilgrimage, or a contribution. From 1095 the plenary indulgence was attached to the crusade. Purgatory as a defined place with a name is a development of the twelfth century, given conciliar definition at Lyon in 1274 and again at Florence in 1439. Through all of this the transaction remains bounded in an obvious way: **the buyer is purchasing relief for himself.**

The decisive change is dated and can be pointed at. On **3 August 1476** Sixtus IV issued the bull *Salvator noster*, which applied indulgences to souls already in purgatory. It was not a free-standing pronouncement; it was slipped into a grant confirming an existing indulgence for the rebuilding of a cathedral at Saintes. The following year, on 27 November 1477, *Romani Pontificis provida* settled the theological framing: the remission was granted *per modum suffragii et deprecationis* — by way of suffrage and intercession, not by the direct exercise of the keys.

Consider what that did to the market, because the transformation is total and it is structural rather than moral.

Before 1476 the pool of buyers is the pool of living penitents, and each of them is buying for one account — his own — with a budget, a lifespan, and the ability to judge for himself whether he feels absolved. After 1476 every living person is a potential buyer on behalf of an indefinite number of the dead. The dead accumulate; they do not consume their relief and depart the market in any observable way; they cannot be consulted about how much they need; they cannot confirm receipt; and the buyer's motive is not prudence but grief and guilt, which are not price-sensitive in the ordinary manner. A market bounded by the number of the living has been replaced by one bounded by the number of everyone who has ever lived.

State the general form, because the collection needs it and this is the limiting case:

**The ideal object of extraction against the future is a flow that only the seller can describe and no buyer can ever verify.** A *monte* sells next decade's salt duty, which is checkable — the duty either comes in or it does not, and the shareholders find out. An indulgence for the dead sells a reduction in a quantity of suffering, in a location no living person can inspect, undergone by a person who cannot be asked, measured in units defined by the seller. There is no counterparty capable of complaining, because the party on whose behalf the purchase was made is not available to say whether anything arrived.

Every other instance of this fork in the collection has an aggrieved party in reserve. This one does not, and the absence of a possible complainant is what removes the last discipline on the quantity that can be issued.

## What it cost

The bill came in 1517 and its arithmetic is worth setting out, because the transaction had two ends and only one of them was in Rome.

Albrecht of Brandenburg held the archbishopric of Mainz along with other sees, which required a dispensation, which had to be paid for, which he had financed by borrowing from the Fugger bank. The remedy agreed was a great indulgence campaign for the rebuilding of St Peter's, preached in his territories, with the proceeds divided: half to Rome for the basilica, half to Albrecht's creditors. The *Instructio summaria* he issued to the preachers laid out what was to be said and what was to be charged, with sums graduated by rank and estimated capacity to pay, and prayer prescribed in place of money for the genuinely poor. Johann Tetzel was among the preachers.

On 31 October 1517 an Augustinian friar at Wittenberg posted ninety-five theses for disputation. Three of them state the structural case with more precision than any modern analysis has managed.

On the framing of 1477:

> *Optime facit Papa, quod non potestate clavis (quam nullam habet) sed per modum suffragii, dat animabus remissionem.*
> *The pope does very well in that he grants remission to souls not by the power of the keys — which he does not possess in this matter — but by way of suffrage.*

On what the preachers were actually telling people:

> *Hominem predicant, qui statim ut iactus nummus in cistam tinnierit evolare dicunt animam.*

*They preach mere human doctrine who say that as soon as the coin thrown into the chest tinkles, the soul flies out.*

And the question that cannot be answered:

*Cur Papa non evacuat purgatorium propter sanctissimam charitatem et summam animarum necessitatem ut causam omnium iustissimam, Si infinitas animas redimit propter pecuniam funestissimam ad structuram Basilice ut causam levissimam?*
*Why does the pope not empty purgatory for the sake of most holy love and the supreme need of souls — the most just of all causes — if he redeems an infinite number of souls for the sake of that most ruinous money given for the building of a basilica, a most trivial cause?*

Followed, for good measure, by the observation that the pope's wealth is at this day fatter than the fattest Crassus, and a question about why he does not build his one basilica with his own money rather than with the money of poor believers.

Two things about the famous jingle, because the discipline of this study requires them. The couplet about the coin in the box and the soul springing from purgatory is attributed to Tetzel **by Luther**, appears nowhere in Tetzel's surviving sermons, and turns up in print only later. It may well capture what was said. It is not evidence of what was said, and this module does not use it. The claim, repeated in popular histories, that peasants starved their families to buy relief for dead relatives is likewise polemical in origin and has never been quantified; it is reported here as a claim, not a figure.

What is not in doubt is the structure. The theses are a disputation about **the mechanics of a market**, and Luther's sharpest question — thesis 82 — is a straightforward test for whether the seller believes his own product. If the pope can release souls, and love is a better reason than money, why is the release for sale?

## Reading extraction against the framework

Six findings.

**The Torah supplied a fiscal constitution for a priesthood without heirs, and stated the causation explicitly.** Numbers 18:24 gives the Levites the tithe *because* they have no inheritance, with the *therefore* in the sentence. This is not an offering; it is the specified substitute for a landed patrimony. The order that this study was built around did not have to invent an answer to its central problem, because it had adopted a scripture in which the answer was already written out — and the same scriptural node,

Genesis 14 read through Hebrews 7, also supplied the priest-king and the doctrine of a priesthood "without descent." The collection should carry this as a general prompt: **when an order faces a structural problem, look first at what its inherited texts already contain, because adopted scripture arrives with institutional forms attached and those forms will shape what the order becomes.**

**The warrant is Hebrew; the machinery is Roman.** The entitlement came from Jerusalem in a book. The corporation that never dies, the perpetual lease, prescription, the chancery and the accounts came from Rome. Neither half is sufficient and the division is clean enough to be worth carrying as a template for any syncretic order.

**A universal levy by an unarmed institution requires an armed party to enact it, and the enactment is a permanent liability.** The tithe became compulsory by Frankish capitulary in 779, not by papal decree. What a statute creates a statute can revise, and this order held its largest revenue for eight centuries on a title issued by the secular power — which is the root of lay impropriation and, in the end, of the dissolutions.

**The sale of exceptions to one's own law is a revenue stream that grows with the strictness of the law.** An institution earning from dispensations acquires a standing interest in multiplying the rules from which dispensation is needed. Watch for this wherever a rule-making body is also the seller of relief from its rules.

**A nominal render is a tenure marker, not a tax, and its value is that it is paid rather than what it amounts to.** Peter's Pence should never be entered as revenue. It is an annual documented acknowledgement of a relationship, cheap for the payer precisely because what the recipient wants is the acknowledgement.

**And the limiting case of extraction against the future is a flow only the seller can describe and no buyer can verify.** Ordinary public debt sells a real, measurable future flow and is disciplined by the fact that shareholders find out. The indulgence for the dead sells a reduction in a quantity of suffering, in a place no living person can inspect, undergone by someone who cannot be asked, measured in units the seller defines — and there is no counterparty in a position to complain, because the beneficiary is dead. **The absence of a possible complainant is what removes the last limit on the quantity that can be issued**, and that, rather than any individual preacher's greed, is the structural reason the thing ran away.

One thing to carry forward, which joins this module to the last. The earlier finding was that belief is not an item in the ledger but the exchange rate at which every other item is priced. This module has watched the same institution deploy its heaviest sanction to protect the market share of a mine, and issue an unlimited quantity of remission against a fund nobody could audit. Both are ways of drawing on the same

account. **An order whose whole power rests on manufactured belief can extract against that belief faster than the formation apparatus can replace it**, and the two ledgers examined here are, in the end, one ledger, because the alum and the indulgences were both being paid for in the same currency and it was not money.

## A note on sources.

Quoted exactly from public-domain primary sources: Leviticus 27:30, Numbers 18:20 and 18:24, Deuteronomy 18:1–2 and Genesis 14:18–20, in the Authorised Version; Hebrews 7:3, likewise; and theses 26, 27 and 82 of Martin Luther's *Disputatio pro declaratione virtutis indulgentiarum* of 31 October 1517, in the Latin as printed at the Latin Library and at Latin Wikisource and cross-checked between them, with translations of my own. The substance of thesis 86 is reported rather than quoted.

Quoted with a flag: Giovanni di Castro's letter to Pius II announcing the alum discovery, as it appears in English in the modern literature deriving from Pius II's *Commentaries*. I have not established which translation this is or whether it is out of copyright, and readers should treat the wording as reported rather than verified; the substance — the comparison with Ottoman alum revenue, the seven hills, and the sinews of war — is consistent across the accounts.

Paraphrased and credited to standard reference works and modern scholarship: the *aparche* of classical Athens and the Roman *primitiae* as parallels to Hebrew first fruits; the letter of the bishops at Tours in 567 and the canons of Mâcon in 585 as the earliest tithe legislation; Pepin's letter to Bishop Lull of about 765; Charlemagne's capitulary of Herstal of 779 and its repetition in 794 as the first legal imposition of tithe, and the Anglo-Saxon parallel in the laws of Edgar; the canon-law position that tithes are of divine law, at *Decretales* III.30.14; the treatment of tithe as rent for church land in the Council of Valence of 855 and in the Pseudo-Isidorian material; the structure of annates, *servitia communia*, Peter's Pence, chancery and Datary fees, and the Triennial Subsidy of 1543; the discovery of alum at Tolfa in or about 1462, Pius II's assignment of the profits to the crusade, Paul II's excommunication of traders in Turkish alum, the cartel agreement with Ferdinand of Naples of 11 June 1470, and the Medici bank's role in distribution; the creation of the Monte della Fede by Clement VII in 1526 to raise 200,000 gold *scudi*, and the growth of the papal funded debt and of venal offices thereafter; the development of purgatory as a defined doctrine and its conciliar definitions at Lyon in 1274 and Florence in 1439; Sixtus IV's *Salvator noster* of 3 August 1476 and *Romani Pontificis provida* of 27 November 1477, with the *per modum suffragii* framing; and the financial architecture of the 1517 campaign,

including Albrecht of Brandenburg's Fugger debt, the division of proceeds, and the *Instructio summaria*.

Figures, all of which should be read as estimates from the modern literature rather than as accounts: the suggestion that alum came to contribute something like a fifth of papal revenue; the estimate that some seventeen million tons of alunite were extracted from the papal mines between 1462 and 1796; and di Castro's figure of three hundred thousand gold pieces a year flowing to the Ottomans, which is his own rhetorical estimate in a letter seeking patronage and should be treated accordingly. No total is offered for papal income in any period, because the surviving Camera accounts do not support one and the figures circulating in the polemical literature of the sixteenth century onward are unusable.

Flags. The Tetzel couplet is attributed by Luther, is absent from Tetzel's surviving sermons, and appears in print only afterwards; it is not used here. The claim that people impoverished themselves to purchase relief for the dead comes from polemical and popular histories and has not been quantified; it is reported as a claim. The scholarship on the tithe's origin is genuinely divided between a sacral-Levitical descent and a contractual descent from land rent, and this module states both without adjudicating. And the reading of *Salvator noster* as a deliberate market expansion is an inference from its effects: the bull's own language is theological, it was issued as part of a routine confirmation, and nothing in the record establishes that anyone at the time was reasoning about the size of the buyer pool. The structural consequence is real whether or not it was intended, but the two should not be confused, and popular accounts that treat 1476 as a cynical business decision are asserting a motive the evidence does not supply.

MODULE 7

# To Restrain Petulant Spirits

*Information and suppression — the monopoly of rightful interpretation, why a second voice speaking for God would have unsettled every title in Christendom, and an order whose most dangerous book was its own*

## Three problems, and only the first is the usual one

Most orders in this collection have one information problem: they need the account of themselves that circulates among the governed to be the account they have authorised, and they build machinery to keep out competing accounts. That problem is here too, and it produced the machinery everyone knows about — the inquisitions, the Index, the licensing of printers.

But it is the smallest of three, and taking it for the whole produces the standard account of this subject, in which a powerful institution suppressed dissent because powerful institutions do. That is true and it explains almost nothing. The second and third problems are the ones that make this case worth the study.

**The second is that every crown in Latin Christendom traced its lawfulness through a single office.** The chain ran from God, through the man who spoke for God, to the anointed king — and the earlier modules have followed that chain in operation: a Frankish mayor of the palace who needed a finding he could not write himself, a sentence that dissolved an emperor's oaths, a hundred anointings whose whole force lay in who performed them. The value of such a warrant consists entirely in the impossibility of obtaining it anywhere else. **A second authority speaking for God does not add a competing opinion. It voids the currency.** Not because two answers might disagree — they might happily agree — but because a title obtainable from two independent sources is a title whose issuer no longer controls it, and every holder of one becomes, overnight, a man whose deeds might be challenged by someone holding a deed from the other office.

That is why the response to a few thousand weavers in Languedoc was so grotesquely out of proportion to their numbers. The threat was never that some peasants would believe something eccentric. It was that if an alternative source of religious authority could be established anywhere, every settlement in Europe became contestable at once.

**And the third problem is the one that has no parallel anywhere in this collection.** This order's most dangerous document was its own scripture, and it could not be removed, because it was the warrant.

## The dangerous book

State this structurally and without polemic, because the polemical version is both cheap and less interesting.

Jesus of Nazareth was a Jewish teacher whose recorded preaching is overwhelmingly addressed to the poor and repeatedly hostile to wealth, to religious officials, and to the outward display of standing. A camel through a needle's eye. Sell what thou hast and give to the poor. Take nothing for the journey, neither staves, nor scrip, nor bread, nor money. The tables of the moneychangers overturned in the temple court. The woes pronounced against scribes who love the uppermost seats. My kingdom is not of this world. He that is greatest among you, let him be as the younger; and he that is chief, as he that doth serve.

Now place that text inside an institution holding twenty-two cities conveyed by a Frankish king, a landed estate spanning the western Mediterranean, a chancery, a treasury, a fleet of grain ships and — later — a monopoly in industrial minerals enforced by excommunication. Any literate layman reading the Gospels plainly arrives at an obvious question, and the institution had no way of preventing him from arriving at it, because the text was not an enemy publication that could be burned. It was the word of God, it was read aloud in every parish church in Europe every week, and the institution's entire claim to speak rested on it.

**No other order in this collection has that vulnerability.** Every other one suppresses documents produced by its opponents. This one had to manage, permanently, a document that it itself declared to be divine, was obliged to recite publicly, and could not amend.

Two cautions belong here immediately, and both are load-bearing.

The first is that this is not a theological claim. Serious and unforced readings reconcile the Gospels with an institutional church holding property, and have done so for two thousand years; the argument that Christ's poverty was personal rather than prescriptive, or that the church's temporal endowment served the poor it was said to contradict, is not a piece of sophistry invented to cover an embarrassment. The structural point is independent of which reading is right. It is simply that **the plain reading is dangerous, and the institution knew the plain reading was dangerous**, and everything in this module follows from that knowledge.

The second cuts the other way and is rarely noticed. The order held *two* canons, and they point in opposite directions on precisely this question. The Torah supplied the tithe, the landless priestly caste maintained by a tenth of everyone's produce, and Melchizedek the priest-king; it is a fiscal and constitutional charter for exactly the institution the Latin church became. The Gospels supplied the case against every element of it. **One of this order's scriptures underwrote the extraction and the other attacked it** — and both were the word of God, bound in one volume, read from one lectern.

Which is why the monopoly of interpretation mattered here more than in any comparable case. Where a canon points one way, control of reading is useful. Where two canons point opposite ways, **whoever decides how to read them decides everything**, and the question of who that is becomes the central political question of the civilisation.

## The people who read it

The first serious pressure came from people who took the plain reading and acted on it.

The Cathars require care, and the care should be stated up front. Almost everything known about them comes from the records of the men who destroyed them — inquisitors' registers, polemical treatises, crusade chronicles — and recent scholarship has substantially revised, in some accounts nearly dissolved, the older picture of a coherent dualist counter-church with a hierarchy and a theology. This study does not adjudicate that debate and readers should know it is live.

What is not in dispute is the thing that mattered politically. The *perfecti* were conspicuously austere: they owned little, travelled poor, worked with their hands, and did not obviously enrich themselves. Set beside a local clergy with benefices, tithes and pluralities, that austerity was not a doctrinal position. **It was a demonstration**, and its persuasive force came not from any argument about the nature of matter but from the fact that these people were visibly doing what the Gospel said and the clergy visibly were not.

The Waldensians make the point cleanly because their record is better and their doctrine less exotic. Around 1173 a wealthy merchant of Lyon named Valdes gave away his property and began preaching apostolic poverty. Between 1175 and 1185 he arranged — or took part in — a translation of the New Testament into the vernacular of the region. In 1179 he and a disciple came to Rome during the Third Lateran Council and were received. The poverty was permitted. The preaching was not, except under authorisation from the local clergy. He preached anyway, and in 1184 Lucius

III's decree *Ad abolendam* named the Poor Men of Lyon among the condemned. In 1215 the Fourth Lateran Council declared them heretical.

And here is the finding, which the scholarly literature states plainly and which most popular accounts miss entirely.

**They were not condemned for preaching apostolic poverty.** The Franciscans preached apostolic poverty. They were condemned because they would not accept the bishops' prerogative over the content of preaching, nor the standards governing who was fit to preach at all.

The heresy was not the doctrine. It was the unlicensed transmission.

## Francis

Thirty years after Valdes, the son of a wealthy cloth merchant in Assisi gave away his property and began preaching apostolic poverty, in the vernacular, to laypeople, in the open air, with a band of followers who owned nothing.

The content is not merely similar to Valdes's; it is in places indistinguishable. Both men were rich merchants who divested. Both preached the poverty of Christ against a wealthy clergy. Both attracted lay followers who wanted to preach. Both went to Rome and asked.

Valdes was excommunicated. Francis, in 1209 or 1210, was approved by Innocent III, and the Order of Friars Minor became within a generation the most effective preaching apparatus in Europe — reaching, in the vernacular, in the streets, precisely the urban population most likely to have found the Cathars persuasive.

**Same doctrine, opposite outcomes, and the variable is the licence.**

This is the mechanism the earlier modules found operating retrospectively — the inquiry held, the finding published, the man hired — now running forward. It is the more powerful version, and its principle can be stated generally:

**The most efficient answer to a doctrine you cannot refute is to license it.** The licence does not touch the content and does not need to. It changes who controls the transmission, which is the only thing that was ever at stake. Apostolic poverty performed under obedience, with a rule, a general and a papal confirmation, is a religious order and an asset. The same words spoken by a man who has not asked are a heresy and a threat. Nothing in between has changed except the answer to the question *who authorised this*.

And the diagnostic that follows is one of the most useful this study has produced: **when two movements holding identical doctrine meet opposite fates, the variable is never the doctrine.** Look for the licence, and look at who was willing to ask for it.

## Where licensing fails

Absorption is not a permanent solution, and this order's own history contains the proof, in the sharpest document in the module.

Having licensed apostolic poverty, the institution now housed within itself an order whose founding premise was that Christ and the apostles had owned nothing. That premise has an obvious application, and the Franciscans applied it. If Christ owned nothing, what exactly is the church doing with the Patrimony of St Peter? The rigorist wing pressed the point through the thirteenth century and into the fourteenth, and the controversy came to a head in 1322 and 1323.

On **12 November 1323**, John XXII issued the bull *Cum inter nonnullos*, declaring erroneous and heretical the doctrine that Christ and his apostles had no possessions whatever.

That sentence should be allowed to sit without commentary. A pope declared it a heresy to say that Christ was poor.

The sequel followed the logic exactly. In *Quia vir reprobus* of 16 November 1329 John deposed and excommunicated Michael of Cesena, the minister-general of the order he had condemned — by which point Michael, with Bonagratia of Bergamo and William of Ockham, had already fled Avignon and gone over to the emperor, at whose court Ockham spent the next twenty years writing against papal authority.

Read that structurally and it yields a correction to the absorption finding, which the collection has so far recorded as a straightforward strength.

**Licensing a dangerous doctrine does not defuse it. It houses it** — and a doctrine that has been given a rule, a habit, a general and forty thousand men acquires an institutional constituency with its own interest in pressing the doctrine further. The institution has bought a century, not a settlement. At the end of the century it must either concede the point or condemn its own licensed order; and if it condemns, the men it condemns are not scattered peasants but trained theologians with an organisation, who go directly to its principal rival and take their arguments with them.

**Absorption has a term, and its cost is an internal constituency for the thing absorbed.**

## The apparatus

The machinery, in order, and briefly, because its outline is not in dispute.

*Ad abolendam*, 4 November 1184, directed bishops to make inquiry in their dioceses — the procedural root of everything that followed. The Albigensian Crusade ran from 1209 to 1229 and was a war of extermination in the ordinary sense of the

word. *Excommunicamus* of 1231 put inquisition in the hands of papal commissioners, largely Dominican, rather than local bishops. *Ad extirpanda*, in 1252, authorised the use of torture. The Roman Inquisition was established by Paul III in 1542. The first Roman *Index Librorum Prohibitorum* appeared under Paul IV in 1559, the Tridentine Index in 1564, and a permanent Congregation of the Index in 1571; the Index was abolished in 1966.

One famous sentence has to be handled the way the previous module handled another. The line attributed to the legate Arnaud Amalric at the sack of Béziers in 1209 — that the army should kill them all, since God would know his own — is reported by Caesarius of Heisterbach roughly thirty years after the event, is not contemporary, and is not corroborated. It may well capture the spirit of what happened; it is not evidence of what was said. **Two of the most quoted sentences in this entire study are hearsay recorded decades later by distant parties**, and the discipline is the same in both cases: report the attribution, and do not build on it. What does not require the quotation is that thousands of people were killed at Béziers, and that a twenty-year war was fought against a Christian population in a Christian province with a papal indulgence attached.

## The book, restricted

The Council of Toulouse met in 1229, at the conclusion of that war, in the province where it had been fought. Its fourteenth canon prohibited laypeople from possessing the books of the Old and New Testament — excepting the psalter and the offices — and forbade absolutely their having these books in the vernacular. The Council of Tarragona in 1234 required anyone holding scripture in the Romance vernacular to surrender it to the bishop within eight days to be burned. Archbishop Arundel's Constitutions at Oxford in 1408 forbade anyone to translate scripture into English on his own authority, or to read such a translation publicly or privately without diocesan approval.

And now the correction, which matters, and which strengthens the analysis rather than weakening it.

**No universal or absolute prohibition of vernacular scripture was ever issued by any pope or general council.** The standard scholarly statement of the position is unambiguous on this, and popular polemic on both sides misrepresents it in both directions. What existed were **regional restrictions enacted by provincial synods in response to specific movements**, plus a later licensing regime which, after Clement VIII's *Observatio* of 1596, functioned in Italy and Spain as something close to a total prohibition in practice while never being one in law.

Look at where and when the restrictions were issued. Toulouse in 1229, in the province just devastated by a crusade against people who had been reading the book. Tarragona in 1234, in the Waldensian and Cathar hinterland. Oxford in 1408, against the Lollards, whose distinguishing practice was an English Bible.

That pattern is more informative than a general ban would have been.

**Read the geography of a censorship regime and you have the list of what actually frightened it.** A universal prohibition indicates a general anxiety about lay reading. A prohibition issued only in the specific places where somebody had recently used the book against the institution identifies the fear precisely: not that laypeople would read, but that laypeople who read this particular text without supervision reached conclusions about wealth and clergy that no amount of preaching could subsequently dislodge.

## The monopoly stated in law

The printing press arrived in the 1450s and the licensing response was almost immediate: Innocent VIII's *Inter multiplices* of 1487 required prior approval for printed books, and Leo X renewed the requirement at the Fifth Lateran Council in 1515 — two years before Wittenberg.

But the definitive statement is Trent, session four, 8 April 1546, and it deserves quoting in full, in the public-domain English of Waterworth's translation, because every clause in it is doing work:

> *Furthermore, in order to restrain petulant spirits, It decrees, that no one, relying on his own skill, shall — in matters of faith, and of morals pertaining to the edification of Christian doctrine — wresting the sacred Scripture to his own senses, presume to interpret the said sacred Scripture contrary to that sense which holy mother Church, whose it is to judge of the true sense and interpretation of the holy Scriptures, hath held and doth hold; or even contrary to the unanimous consent of the Fathers;* ***even though such interpretations were never intended to be at any time published.*** *Contraveners shall be made known by their Ordinaries, and be punished with the penalties by law established.*

Three things.

**The monopoly is asserted as jurisdiction.** The Church is described as the body "whose it is to judge of the true sense and interpretation" — the vocabulary is a court's vocabulary, of competence and venue, not of persuasion. The question is not who is right. It is who has standing to decide.

**The standard is conformity, not truth.** What is forbidden is interpreting contrary to the sense the Church holds, or contrary to the unanimous consent of the Fathers. Whether a given reading is *correct* is not the test and is not raised. A man who has found the true meaning of a passage against the settled sense has still contravened the decree.

**And the reach extends to the inside of a head.** *Even though such interpretations were never intended to be at any time published.* The prohibition covers a reading a man arrives at privately, keeps to himself, and tells nobody. There is nowhere further for an interpretation monopoly to go than that. It is the most complete claim of its kind in the documentary record of this study, and it was made in writing by a general council.

The same session imposed prior censorship on printers: no book on sacred matters to be printed without the author's name, and none printed, sold or even kept unless first examined and approved by the Ordinary.

And the date is 8 April 1546 — twenty-nine years after the ninety-five theses, eleven years after Henry VIII's break, in the middle of a continent that had already fractured. **The most absolute assertion of interpretive monopoly in this order's history was made after the monopoly had been lost.**

## Reading information and suppression against the framework

Six findings.

**A second authority speaking for God does not add a claimant; it voids the currency.** Every crown in Latin Christendom traced its lawfulness through one office, and the value of that office's warrant consisted in the impossibility of getting one elsewhere. A monopoly of interpretation is therefore **a monopoly of title-issuance wearing different clothes**, and heresy suppression should be read as the defence of an issuing franchise rather than as doctrinal fastidiousness. This also explains the otherwise bizarre disproportion between the size of heretical movements and the force deployed against them: the danger was never the number of believers, it was that a second issuer, established anywhere, makes every deed in Europe contestable.

**An order whose warrant is a text it did not write carries a permanent internal vulnerability, and adopted scripture is load-bearing in both directions.** This is the module's main addition. Most orders suppress hostile documents belonging to their enemies. This one's most dangerous document was its own, was undeletable, and was recited weekly in every parish. Worse, it held two canons pointing opposite ways — one supplying the tithe, the priest-king and the landless priesthood, the other supplying the case against all three. **Where an order's scriptures conflict, whoever controls the**

**reading controls the order**, and the elaborateness of the interpretive apparatus is a direct function of how much the texts disagree.

**The most efficient answer to a doctrine you cannot refute is to license it.** Valdes and Francis preached the same content thirty years apart; one was excommunicated and one canonised, and the variable was submission to the licence. The general rule: **when two movements holding identical doctrine meet opposite fates, the variable is never the doctrine.**

**But absorption has a term, and its cost is an internal constituency.** Licensing apostolic poverty housed it, and the house pressed it, until a pope had to declare it heretical to say Christ was poor — after which the condemned went to the emperor and wrote against papal authority for twenty years. This is a genuine amendment to the collection's existing finding on absorption, which has so far treated it as an almost costless strength. It is not costless. **What you absorb you must eventually either concede to or condemn, and condemning it converts your own licensed order into your rival's best argument.**

**Targeted suppression is more diagnostic than general suppression.** No universal ban on vernacular scripture was ever issued; the bans were provincial, reactive, and clustered exactly where somebody had recently used the book against the institution. A general prohibition would tell you an order was generally nervous. A prohibition mapped this precisely tells you what it was specifically afraid of. **Read the geography and the dates of a censorship regime and you have the inventory of its actual fears.**

**And the fullest legal statement of a power is often its epitaph rather than its charter.** Trent's interpretation decree — reaching to readings never intended for publication, which is as far as such a claim can be pushed — was enacted in 1546, after the fracture. An institution that has held a monopoly comfortably for centuries has no occasion to define it; the definition arrives when the thing has begun to be contested, and the most complete definitions arrive when it has already gone. This is worth carrying forward with some care, because this study will meet the same pattern again at its very end, in a doctrine defined nine weeks before the state that defined it ceased to exist.

One last thing, held under the collection's own discipline. This module has described an apparatus that killed people — at Béziers, in the inquisitorial tribunals, at the stake — and no structural account excuses that or is intended to. But the same apparatus is not reducible to it. The institution that condemned Valdes licensed Francis, and the Franciscans did more to relieve actual poverty in Europe than any body before the modern state. The institution that forbade lay Bibles in Toulouse in 1229 had also produced every copy of the Bible then in existence, and taught almost

everyone in Europe who could read the language it was written in. **Legibility is not pardon.** It is also not indictment. It is the attempt to describe what an order did and why the doing made sense from inside it, without pretending either that the cost was not paid or that nothing else was.

## A note on sources.

Quoted exactly from a public-domain primary source in translation: the decree concerning the edition and use of the sacred books, Council of Trent, session IV, 8 April 1546, in J. Waterworth's translation (London: Dolman, 1848), cross-checked across multiple independent reproductions of that text. The scriptural allusions are to the Authorised Version and are referred to rather than quoted at length.

Paraphrased and credited to standard reference works and modern scholarship: the career of Valdes of Lyon from about 1173, including the vernacular New Testament translation of 1175–1185, the reception at Rome during the Third Lateran Council of 1179, the permission to live in poverty coupled with the refusal of unauthorised preaching, the condemnation in *Ad abolendam* of 4 November 1184 and the declaration of heresy at the Fourth Lateran Council in 1215 — and, critically, the scholarly finding that the Waldensians were condemned not for preaching apostolic poverty, which the Franciscans also preached, but for refusing to recognise episcopal prerogative over the content of preaching and the standards governing who was fit to preach; the approval of Francis of Assisi by Innocent III in 1209 or 1210; the poverty controversy of 1322–23, John XXII's *Cum inter nonnullos* of 12 November 1323 declaring erroneous and heretical the doctrine that Christ and the apostles had no possessions, and *Quia vir reprobus* of 16 November 1329 deposing Michael of Cesena, together with the flight of Michael, Bonagratia of Bergamo and William of Ockham to the emperor; the sequence of inquisitorial legislation from *Ad abolendam* through *Excommunicamus* of 1231 to *Ad extirpanda* of 1252, and the establishment of the Roman Inquisition in 1542; the Indexes of 1559 and 1564, the Congregation of the Index of 1571, and its abolition in 1966; canon 14 of the provincial Council of Toulouse of 1229, the Council of Tarragona of 1234, and Arundel's Constitutions of 1408; Innocent VIII's *Inter multiplices* of 1487 and the renewal of prior licensing at the Fifth Lateran Council in 1515; and Clement VIII's *Observatio* of 1596.

Flags, and there are four that matter.

**On the Cathars**: almost the entire surviving record was produced by their persecutors, and a substantial body of recent scholarship has questioned how far the older picture of an organised dualist counter-church corresponds to anything that existed. This module makes no claim about Cathar doctrine and rests only on the point

that the *perfecti* were conspicuously austere and that their austerity was the source of their credibility. Readers should know the wider debate is unsettled.

**On Béziers**: the line attributed to Arnaud Amalric is reported by Caesarius of Heisterbach some three decades after the event, is uncorroborated, and is not used here as evidence. Nothing in the argument depends on it.

**On the vernacular Bible**: the claim that the medieval church banned the Bible is false as usually stated, and this module says so. The restrictions were regional, reactive and specific, and the argument made here depends on that fact rather than surviving in spite of it. Readers who arrive expecting either the Protestant polemical version or the apologetic version will find neither.

**And on the interpretation of Trent's decree**: the reading offered here — that the standard imposed is conformity rather than truth, and that the clause about unpublished interpretations represents the furthest reach available to such a claim — is my analysis of the text's plain sense, not a position taken from the theological literature, which discusses the decree principally in terms of its intended target and its practical enforcement. The words quoted are the council's. The construction placed on them is mine.

MODULE 8

# Insofar as It Is Not Contrary to Church Law

*Elite coordination and the default — the chain that ran from Rome to every deed in Europe, an electorate that could not bind the office because any of them might hold it, and the moment the endowment became the prize for defecting*

## Whose ledger this is

The earlier module on compliance asked why a man with no standing complied. This one asks a different question about entirely different people, and the two should not be run together.

A hierarchy survives when the people *inside* it — the ones with land, office, arms, revenue, standing — defend the arrangement without being asked to and without necessarily wanting to. They do not have to like one another. They do not have to believe in anything. They need only find that their own position is worth protecting and that protecting it means protecting the framework that defines it. Where that has been arranged, the whole structure is defended by default, as a by-product of a hundred separate men each looking after himself, and no ruler has to spend anything to obtain it.

Where it has not been arranged, or where it has decayed, the same men become the danger. **Fracture in a hierarchy comes from a group with standing and means that has stopped benefiting** — not from the bottom, which lacks the coordination, but from somewhere in the middle or near the top, where the capacity to act already exists and only the motive has changed.

This module tracks that arrangement for the order under study, and it has three parts. What the chain was, and why it held. Why the inner elite — uniquely, in this collection — could not constrain the office they staffed. And what happened when the group with standing and means found that the arrangement's own accumulated property was worth more to them than the arrangement.

## The chain

At its height the structure was the most elegant instance of the default in this collection, and it can be stated in a line: **every title in Latin Christendom derived, at some remove, through a single authorising office.**

The pope anointed or confirmed the king. The king enfeoffed his tenants-in-chief. They enfeoffed their own men, and so down. A baron in Northamptonshire held his manor from a king who had never met a pope and would probably never see Rome; the derivation was indirect, and it is important not to overstate it. **The pope did not grant the baron his land**, could not have taken it away, and had no standing to adjudicate it.

What made the chain load-bearing was subtler and more dangerous: **an attack at the top of a derivation chain clouds everything below it.** A king whose standing has been voided cannot warrant his own grants. If a man is not lawfully king, the charters he sealed are the acts of a private person, and every estate held on them becomes a question rather than a fact. That is why a sentence of excommunication against a monarch was not a personal misfortune to be borne with dignity. It put a question mark over the title of every landholder in the realm, simultaneously, in a society where nobody's holding was recorded anywhere except in a chain of grants running back to the crown.

Which produces the constituency of the default without any appeal to piety whatsoever. **Every substantial landholder in Europe had a conveyancing interest in the pope's authority remaining both intact and unique** — intact, because an impeached authority clouds the chain, and unique, because a title obtainable from two sources is a title neither source controls. A baron who never prayed and cared nothing for doctrine still wanted the man in Rome to be unchallengeable, for the same reason a modern proprietor wants the land registry to be functioning and singular.

The founding transaction of this order is the mechanism in miniature, and it is worth noticing that the default was operating on the very first day. A Frankish mayor of the palace who held all the power and none of the name needed a finding he could not credibly write about himself. A bishop of Rome who held an estate, a city and no soldiers needed an army. Each possessed exactly what the other could not manufacture, and neither could have obtained it elsewhere. Nobody in that transaction had to trust anybody. The structure did the work.

For four hundred years after the reform of the eleventh century that arrangement held with remarkable strength, and the reason it held is that it was not, for most participants, an arrangement at all. It was the way property worked.

## An elite that could not have sons

Now the part of this case that has no parallel, and it concerns the inner elite: the cardinals and the curia.

Begin with the ordinary pattern, because the contrast is the whole finding. **A hereditary aristocracy's structural interest is to limit the crown.** Its members will never hold the crown; their sons will not hold it; and every increment of royal power is therefore a permanent transfer away from their line to somebody else's, with no prospect of recovery. That single fact organises most of the constitutional history of Europe. Barons extract charters because they are permanently outside the office they are constraining, and their heirs will be too, which makes the constraint worth building and worth defending across generations.

**A College of Cardinals is the opposite case in every particular.** Its members have no lines. They cannot transmit anything they win. And each of them stands a real, calculable chance — one in twenty, one in fifty — of personally holding the entire office, with everything attached to it, for the rest of his life.

Which flips the sign on every constitutional question. A cardinal contemplating a limitation on papal power is contemplating a limitation on an asset he might acquire in the next fortnight. He has no heir who will still be a cardinal in fifty years and would benefit from the constraint. His interest in the office's powers is an interest in an inheritance he might personally receive, and the arithmetic is transparent to him.

That yields a prediction, and the prediction is testable: **the electors will attempt to constrain the office collectively, and they will fail every time, because the interest of the one man who matters reverses on the day of the election.**

The record is three hundred years long and it does not contain a single exception.

The first conclave capitulation in the history of the church was drawn up at Avignon in December 1352, in the Palais des Papes, by the twenty-five cardinals who met after the death of Clement VI. Its terms were an oligarchic constitution in miniature. The College was to be capped at twenty, with no new creations until the number fell to sixteen. A two-thirds majority of the College would be required before the pope could create a cardinal, excommunicate one, deprive one of his vote, or reduce any cardinal's property or revenue — or request a subsidy from a sovereign or a national clergy. The College was to have a veto over papal decisions and policy. And **all papal revenue was to be shared with the College**. The scholarly literature describes it, accurately, as part of a strategy to convert the government of the church from a monarchy into an oligarchy.

Every elector subscribed it. Among them was Étienne Aubert, cardinal bishop of Ostia, who signed with a reservation: *insofar as it was not contrary to church law.*

On 18 December 1352 Aubert was unanimously elected pope and took the name Innocent VI. On 6 July 1353 — **seven months later** — he declared the capitulation invalid by the constitution *Sollicitudo*, citing a constitution of Gregory X which prohibited conclaves from transacting any business other than the election itself.

Seven months, and he had written his own escape into the document before signing it.

The College did not learn. Most conclaves for the next three centuries produced a capitulation. In 1431 the cardinals extracted from the future Eugenius IV an undertaking that half of all papal revenue would be shared with the College. There were capitulations in 1458 for Pius II, in 1464 for Paul II, in 1471, in 1484 for Innocent VIII. They were repudiated, forbidden, and pronounced null and void. After the conclave of 1513 that elected Leo X, the College never again attempted to limit its own size, and it never recovered its position as the senate of the church.

Set that beside Magna Carta and the difference is exact. The English barons' charter had teeth — imperfect, frequently violated, repeatedly reissued teeth — because the men who imposed it were permanently excluded from the office they were binding, and so were their sons, so that the constraint had a standing constituency for as long as the baronage existed. A conclave capitulation had no teeth at all, because the only person it bound was, by definition, the single member of the constraining body whose interests it had just ceased to serve.

Call this **the lottery default**, and state the general form, because it applies well beyond conclaves:

**An office whose electorate is drawn from the same pool as its candidates cannot be constrained by that electorate.** Every elector is a potential winner of everything the office holds, so none of them has a durable interest in reducing it; and any collective undertaking is defeated by the one member whose position changes at the moment of decision. Constitutional constraint requires a constraining body **permanently excluded** from the office it constrains. Where the constrainers are also the candidates, the constraint is a promise made by twenty-five men of whom exactly one will be in a position to break it, and he will be selected precisely because the others thought he might be pope.

This is a genuine addition to the collection's account of elite coordination, and it explains something the earlier modules left dangling. The absence of heirs made the settlement extraordinarily hard to construct and made formation extraordinarily cheap to extend. Here it does a third thing: **it makes the office nearly impossible to constrain from within**, because it removes the one motive — a son's future — that has produced every durable aristocratic check in European history.

It also sets up what follows in this study, since it predicts, before the evidence is examined, that the fifteenth century's attempt to subject the papacy to a council was going to lose.

## Where the default held: the price of a bishop

The fifteenth and sixteenth centuries are conventionally read as the papacy's decline. Read as a question about elite coordination, the same events show something more interesting: **a systematic, largely successful campaign to buy off the parties with standing and means, paid for in appointments.**

The clearest instrument is the Concordat of Bologna, signed at Rome on 18 August 1516, negotiated after Francis I destroyed the papal-Italian coalition at Marignano the previous September. Its terms are worth reading as a commercial transaction, because that is what they are.

Francis received the right to nominate to virtually every significant benefice in France — archbishoprics, bishoprics, abbeys, priories — which meant the crown chose the personnel of the entire French church. He received confirmation of his right to tax the clergy, and restrictions on appeals from French clergy to Rome. The elective principle in the French church was extinguished.

Leo X received the abolition of the Pragmatic Sanction of Bourges, the restoration of annates from France, the retention of canonical institution — so that the papal veto over any nominee survived — and one further thing, which matters more than it looks: **Francis agreed that the pope was not subject to a council.**

That is the whole trade in one sentence. The king was paid in personnel. The pope was paid in money and in the defeat of conciliarism. Each side received the currency it actually wanted, and neither had to concede anything it valued more.

And the consequence is stated flatly in the standard reference literature: after 1516 the French crown did not feel weakened by the Catholic structure and therefore had no direct motive to support the Reformation. France got, by agreement, almost everything a national church would have delivered — royal control of appointments, patronage and the effective disposition of ecclesiastical wealth — without leaving. Henry VIII broke with Rome partly to obtain what Francis already possessed on parchment.

Spain fits the same pattern by a different route: the crown accumulated royal patronage over ecclesiastical appointments from the late fifteenth century onward, and Spain became the most militantly Catholic power in Europe. The Empire fits it by failing: the emperor could not deliver a settlement to the territorial princes, and the princes helped themselves. Scandinavia fits it the same way.

So the correlation, stated with the caution it needs: **rulers who obtained control of ecclesiastical appointments and revenues from inside the arrangement stayed inside it. Rulers who did not obtain that control from inside took it from outside.**

Three caveats, because the correlation is strong but not a law. Poland remained Catholic without any comparable concordat. Scotland went Protestant against the wishes of its crown, which is the reverse of the pattern. The Empire is not a clean case because the emperor was never the relevant decision-maker. And — this matters most — **the claim is not that theology was epiphenomenal.** People argued about justification and the Eucharist because they cared, and many of them died rather than concede. The claim is narrower and survives: belief determined who was *willing* to defect; the appointments determined who found defection *profitable*; and the map of the Reformation is the map of where those two coincided.

## Where the default broke

Which brings the module to its central finding, and it comes out of the settlement rather than out of the theology.

The exported settlement worked for six hundred years. The church could not manufacture heirs inside itself, so it granted heritable interests in its land to lay families who could, retained the reversion, and thereby produced a hereditary class whose own titles derived from the church's title and who therefore defended the church's title as a by-product of defending their own. That is the default operating exactly as designed.

But run the same instrument for six centuries and observe what accumulates. By the early sixteenth century there had built up, in every kingdom of Europe, an enormous stock of land, buildings, revenues and jurisdictions held under a single title which only one external office could validate. The proportions are disputed and should be given as ranges rather than figures — in England, estimates of the share of land in ecclesiastical hands before the dissolution commonly run somewhere between a fifth and a third, and the range is wide because the underlying surveys are partial — but the order of magnitude is not in doubt. It was the largest single category of transferable property in Latin Christendom.

Now consider what that means for a prince the moment an alternative warrant becomes available.

For six hundred years, the church's title had been the thing *protecting* everyone's holdings, because it stood at the head of the chain that made all of them good. **From the moment a ruler could obtain religious authority from another source, the church's title stopped being the protection and became the only obstacle** — the

single legal impediment standing between him and the largest pool of assets in his territory.

The sign flips, and it flips for exactly the group the default depends on.

State the finding plainly, because it is the module's contribution and it generalises to every propertied institution that issues its own warrant:

**An order that accumulates property under a title only it can issue is, by that same act, building the prize for its own elite's defection. Extraction and the default are in direct tension, and the tension scales with the endowment.** Every acre added to the settlement increases the payoff for repudiating the settlement's author. The machine that manufactured defenders runs in reverse the instant a second warrant exists — and it runs faster the better it has worked.

That is why the Reformation transferred property on the scale it did and why it went where it went. And it is why the defection came from the middle of the hierarchy rather than the bottom: the peasants had no title to improve and did not, in the main, get the land.

## The clause that proves they knew

The strongest evidence that this analysis is not hindsight is that the parties negotiating the settlement of 1555 wrote a clause specifically to defeat the mechanism.

The Peace of Augsburg, concluded on 25 September 1555, gave each prince of the Empire the right to determine the confession of his own territory — the principle later summarised as *cuius regio, eius religio*. Attached to it was the **ecclesiastical reservation**, the *reservatum ecclesiasticum*, which provided that an ecclesiastical prince — a prince-bishop, a prince-abbot — who converted must give up his office and its lands rather than carrying them with him into the new confession.

Read what that clause is for. It exists solely to **remove the personal profit from a prelate's conversion.** It does not argue with anybody's theology. It does not restrict conversion. It simply severs the connection between changing confession and keeping the property, on the correct assumption that if the connection is left intact, a great many bishops will make a decision about the nature of the Eucharist that happens also to leave them holding a principality.

An anti-defection clause aimed precisely at the property incentive, drafted by men watching the mechanism operate in real time. It was the most bitterly contested provision in the settlement, its breaches were among the standing grievances of the following sixty years, and those grievances ran directly into the Thirty Years' War.

**When you find a settlement containing a clause that strips the personal gain from defection, you have found a party that has correctly diagnosed its own**

**default problem.** Usually, as here, some decades after the diagnosis would have been useful.

## The other fracture, earlier and smaller

One earlier break belongs on the record because it shows the same mechanism at a smaller scale and among a different group.

In January 1076, at Worms, the German bishops renounced their obedience to Gregory VII. They did so not out of any enthusiasm for imperial theology but because they were, in the main, imperial appointees holding great secular lordships as vassals of the emperor, and the reform programme threatened the arrangement that had made them what they were. A bishop with two masters defects to whichever one gave him his position.

Which loops back to a finding from the module on compliance: the papacy's sanctions were never self-executing and always had to be performed by the local clergy. That module concluded that a sanction executed by people the target can reach is not a sanction against the target. This one adds the reason why: **the local clergy's place in the default depended on who had appointed them**, which is precisely why the appointment question consumed two centuries and why every subsequent concordat is fundamentally about that single variable.

## Reading elite coordination against the framework

Five findings.

**A derivation chain transmits fragility downward, and that is where the default's constituency comes from.** The pope granted no baron his manor; but a king whose standing was voided could not warrant his own grants, so an impeachment at the top of the chain clouded every deed below it at once. This produced a constituency for papal authority among men with no religious motive whatever, on grounds of conveyancing. The general diagnostic: **identify who would have to re-prove their title if the top of the chain were successfully attacked, and you have listed the people who will defend the top of the chain.**

**The lottery default, and the constitutional impossibility that follows from it.** An elective office whose electors are drawn from the same pool as its candidates cannot be constrained by those electors, because every elector is a potential winner of everything the office holds and none has a durable interest in reducing it. Three centuries of conclave capitulations, every one repudiated; the first repudiated within seven months by a man who had signed it with a pre-built reservation. The general

form: **constitutional constraint requires a constraining body permanently excluded from the office it constrains.** Where the constrainers are also the candidates, there is no constitutionalism to be had — only a promise that exactly one man will be in a position to break and every incentive to break it.

**The concordat is the default's maintenance instrument, and appointments are its currency.** Where the papacy could pay a ruler in personnel, the ruler stayed inside the arrangement; where it could not, he left and took the property. Bologna in 1516 is the clean case, and its terms show both sides paid in what they actually wanted — the king in bishops, the pope in annates and in the burial of conciliarism. The correlation is strong, has real exceptions, and does not require the claim that doctrine was insincere: belief decided who was willing to defect, and the appointments decided who found defection profitable.

**Extraction and the default are in direct tension, and the tension scales with the endowment.** This is the module's principal contribution. An order that accumulates property under a title only it can issue is, in the same act, building the prize for its own elite's defection — and the better the settlement has worked, the larger that prize has grown. For six centuries the church's title was what made every derived holding good. From the moment a second warrant existed, it became the only thing standing between a prince and the largest pool of transferable assets in his territory. The mechanism that manufactured defenders reverses without anything else changing.

**And a settlement that contains an anti-defection clause has diagnosed itself.** The ecclesiastical reservation of 1555 exists to sever the link between a prelate's conversion and his retention of a principality. It legislates against nothing but the incentive, which means its drafters had identified the mechanism exactly. Finding such a clause in any settlement tells you two things: what the parties were most afraid of, and that they had left it late.

One connection to carry forward. The collection's studies of authorisation have found that a source of title which acquires the means of enforcement converts itself into a claimant and forfeits the immunity that made it useful. This module supplies the property version of that finding, which is distinct and possibly more general: **a source of title that acquires an endowment converts itself into a target.** Not because holding property is discreditable, but because the endowment is held under the very title the source alone can issue, so that anyone who can break the title acquires the endowment. The papacy spent a millennium making itself indispensable to the security of European property and thereby made itself, in the end, the most valuable thing in Europe to break.

## A note on sources.

Quoted exactly: the reservation entered by Cardinal Étienne Aubert on subscribing the conclave capitulation of December 1352 — that he bound himself insofar as it was not contrary to church law — as reported in the reference literature on the 1352 conclave. This is a reported phrase rather than a document I have read in the original, and it is quoted at that level; readers wanting the Latin should go to the conclave documents rather than to this study.

Paraphrased and credited to standard reference works and modern scholarship: the terms of the 1352 capitulation, including the cap of twenty cardinals with no creations until the number fell to sixteen, the two-thirds requirements, the College's proposed veto, and the sharing of all papal revenue; the characterisation in the literature of the capitulations as a strategy to make the church an oligarchy rather than a monarchy; the unanimous election of Aubert on 18 December 1352 and his annulment of the capitulation on 6 July 1353 by the constitution *Sollicitudo*, citing Gregory X's *Contingit*; the subsequent capitulations of 1431, 1458, 1464, 1471 and 1484 and their annulment; the conclave of 1513 as the point after which the College abandoned attempts to limit its own size; the terms of the Concordat of Bologna of 18 August 1516, including the royal right of nomination, the retention of canonical institution by the pope, the restoration of annates, the abolition of the Pragmatic Sanction of Bourges, and Francis I's acceptance that the pope is not subject to a council; the standard reading that the concordat removed the French crown's motive to support the Reformation; the Spanish crown's accumulation of ecclesiastical patronage; the renunciation of obedience to Gregory VII by the German bishops at Worms in January 1076; and the Peace of Augsburg of 25 September 1555 with its ecclesiastical reservation requiring a converting prelate to surrender office and lands.

Figures. The share of land in ecclesiastical hands in England before the dissolution is given here only as a range of roughly a fifth to a third, because the underlying surveys are partial and the modern estimates disagree substantially; no figure is offered for any other territory. The odds facing an individual cardinal are given as an order of magnitude, not a calculation.

Flags. **The lottery default is my construction**, not a finding taken from the historical literature, which discusses the capitulations in terms of curial politics rather than of incentive structure; the facts are well established and the explanation is mine, and it should be tested against other elective offices with closed electorates before being relied on. **The correlation between concordats and confessional outcomes is a correlation**, is noted in the reference literature for France specifically, and has real exceptions — Poland, Scotland — which are stated in the text rather than buried here;

a study concerned to defeat it could assemble a respectable case, and this module claims only that the property incentive was one large variable among several and not that it was decisive everywhere.

And one thing that would embarrass the argument. This module has explained the sixteenth-century fracture largely in terms of the property incentive among rulers, and that explanation is incomplete in a way worth stating rather than hiding: it accounts well for which rulers broke and poorly for why the theological movement existed to be adopted in the first place. Luther was not a prince and did not receive an abbey. The account offered here explains the distribution of the outcome, not its origin, and a reader who wants the origin should look to the module on formation and to the one on extraction — to a population that had been taught to read its own scripture's account of wealth, and an institution that had been selling relief from a fund nobody could audit.

MODULE 9

# An Appeal to Something Which Is Nowhere

*Plurality or foreclosure — whether there was protection from the apparatus, where it actually came from, why the one written constitution failed inside a generation, and the liberty that was destroyed by the statutes that are remembered as expanding it*

## The question, and the standing observation

The question is not whether people were content, and it is not whether the order was benign. It is narrower and answerable: **was there protection from the apparatus?** Could a person speak, petition, assemble, refuse? Was there anywhere to stand that the apparatus could not reach? And where such protections existed, where did they come from, and what made them more than words?

The observation this collection keeps arriving at is that they do not come from below. A peasant does not draft a liberty. The people who extract protections from an apparatus are factions *inside* the hierarchy, bargaining from a position of strength, at moments when neither they nor the apex wants the arrangement destroyed. A group with standing wants a privilege, an immunity, a say; the top would rather concede than fight; and a concession is made — for reasons that have nothing to do with anybody's rights and everything to do with a particular quarrel in a particular decade.

What survives is **residue**. The quarrel is forgotten; the instrument it produced stays on the books, gets copied into other books, and is eventually picked up by people the original parties never imagined. Almost every liberty in European history can be traced to some fight of this kind, and the fight is almost never edifying. Where somebody below the usual line gets let *in*, look for the factional struggle that made letting them in useful to somebody already inside.

Against that the collection has one sharp analytical tool, and this module exists partly to test it. **The reciprocity test:** a protection is durable to the extent that the faction granting it can imagine needing it themselves, and that imagining is activated by a credible expectation of losing power. A concession made by people who expect to be on top forever is decoration. A concession made by people who can genuinely picture being on the receiving end is a rule.

This case is the best available laboratory, because it contains a complete constitutional experiment — one that was argued by first-rate lawyers, enacted by a

general council, obeyed for a generation, written down, and then abolished. And it contains, at the end, a lost liberty that almost nobody counts.

## The protections that existed

Take the real ones first, because accounts of this subject habitually skip them.

**Sanctuary.** A fugitive from the secular power could claim the protection of a church, and for a long period across most of Latin Europe that claim was effective against sheriffs, lords and royal officers. Notice the structure, because it recurs: the protection did not exist because anybody thought fugitives had rights. It existed because there were **two jurisdictions**, and one of them would not let the other's officers through its door.

**Benefit of clergy.** A defendant could remove himself from the secular courts by demonstrating clerical status, and the operative test was the ability to read. In England this hardened into a general mitigation of an exceptionally savage criminal law: laymen with no clerical function escaped the gallows by reading a verse of the psalter. A caste privilege, defended by the church for jurisdictional reasons entirely of its own, leaked outward into something close to a general protection for anybody literate enough to exploit it.

**A forum for people who had none.** The ecclesiastical courts took marriage, legitimacy, testament and defamation, and lay litigants used them in enormous volume — most consequentially the people no seigneurial court would hear. A woman claiming a man had contracted marriage with her and abandoned her had somewhere to go.

**And procedure.** The Roman-canonical *ordo iudiciarius* developed the apparatus a modern lawyer would recognise: citation, notice of the charge, the right to answer, representation, appeal. The honest qualification is immediate and should not be softened — the same legal culture produced inquisitorial procedure, in which the judge was also the prosecutor and the accused was not told who had denounced him. Both came out of the same schools. It is not possible to credit one without acknowledging the other.

Now look at what these four have in common, because it is the module's first finding and it answers the question directly.

**Every one of them is an artefact of there being two jurisdictions rather than one.** Sanctuary works because the church will not admit the sheriff. Benefit of clergy works because two court systems are competing for defendants. The ecclesiastical forum is available because it is a separate forum. None of these protections was designed as a protection. Each is a by-product of a boundary dispute between two

apparatuses, each of which limited the other to spite it, and the subject stood in the gap.

**Ask not who granted a protection. Ask which two powers were fighting when it appeared.**

## Where one liberty actually came from

The best-documented case is worth following in full, because it is precisely the pattern described above and it ends somewhere nobody would predict.

In the Codex of Justinian, at 5.59.5, under the title *De auctoritate praestanda*, there is a provision dated 1 September 531 dealing with a technical problem: when several guardians hold a joint tutorship and the tutorship is to be terminated, whose consent is needed? The answer given is that all of them must give their authority — *necesse est omnes suam auctoritatem praestare, ut, quod omnes similiter tangit, ab omnibus comprobetur*. What touches all alike must be approved by all.

It is a rule about co-guardians. It never became a general maxim in Roman law and was not intended as one.

In the second half of the twelfth century, canon lawyers working after Gratian found it, and put it to a use it had never had. They used it to define the legal relationship between **a bishop and his cathedral chapter** — that is, to establish that the canons had to be consulted on matters affecting the chapter, and that a bishop could not simply dispose of what was theirs. That is a factional fight inside a hierarchy in its purest form: a body of middling clergy, with standing and means, wanting a say against the man above them, and reaching into a six-hundred-year-old private-law compilation for a tag with imperial authority behind it.

From there the maxim moved. It entered papal legislation from the time of Innocent III, where it supported the claims of the lesser members of the ecclesiastical hierarchy to a hand in the government of the church. It crossed into English common law through Bracton's treatise. Frederick II cited it in 1244 when summoning an imperial council to Verona. And in 1295 **Edward I of England quoted it in the writ to the archbishop of Canterbury** by which representatives were summoned to Parliament.

Follow that chain and consider what it is. The maxim that stands behind the whole idea of representative consent in European government — that what concerns everyone must be approved by everyone — began as a rule about terminating joint guardianships, was picked up by cathedral canons who wanted leverage against their bishops, was adopted by popes who found it useful for managing chapters, and was then quoted by a king who wanted the commons in the room so that he could tax them with their own agreement.

**Not one step in that chain was taken for the sake of liberty.** Every step was self-interested and most were about money. And yet the residue is the constitutional formula of European representative government, still in service seven centuries later.

Which gives a general finding worth carrying:

**Liberties travel as portable instruments, and the instrument outlives every faction that carries it.** What survives a factional fight is not the principle and not the winner but a short, quotable, prestigious formula that anybody standing outside a decision can pick up and use to argue their way in. **Look for the tag, not the principle.** A liberty with no memorable instrument attached dies with the quarrel that produced it; a liberty with a Latin maxim and an imperial citation behind it can be redeployed by strangers in another century for another purpose entirely.

## The constitutional experiment

Now the main event, and it is the fullest attempt anyone made to place this apparatus under a constitution.

The occasion was catastrophe. From 1378 the Latin church had two popes, each with a college of cardinals, each recognised by a bloc of kingdoms, each excommunicating the other. In 1409 the Council of Pisa attempted a solution by deposing both and electing a third, with the result that there were three. The schism ran for a generation with no prospect whatever of resolution by any ordinary means, because **no claimant could win.** Each was secure in his own obedience and powerless outside it. None could enforce a judgement on the others.

That is the reciprocity condition in its purest form. **Every party had a credible expectation of not being the winner** — which is exactly the circumstance in which men who would otherwise never concede anything begin to find constitutional machinery attractive.

The Council of Constance opened in 1414. On 6 April 1415, at its fifth session, it promulgated the decree known from its opening words as *Haec sancta*, which declared that the synod, lawfully assembled and representing the church militant,

> *has power immediately from Christ; and everyone of whatever state or dignity, even papal, is bound to obey it in those matters which pertain to the faith, the eradication of the said schism, and the general reform of the said church of God in head and members.*

Read plainly, that is a written constitution subordinating the executive to a representative assembly, drafted by the assembly, naming the executive's office explicitly,

and grounding the assembly's authority in the same source the executive claimed. It was contested even at the time: a number of cardinals and the entire French delegation objected to the stronger version, and a weaker one had passed a week earlier.

And on 9 October 1417 the council added the machinery, in the decree *Frequens*: the next general council in five years, another seven years after that, and thereafter one every ten years in perpetuity, with each council's closing act to fix the date of the next.

That second decree is the more important of the two and it is usually the less discussed. **A constitution without a scheduled assembly is a wish.** What makes a representative body a check rather than an episode is that it meets on a calendar the executive does not control. *Frequens* supplied the calendar.

For a while it worked. The schism ended; Martin V was elected on 11 November 1417 and recognised universally. He did not repudiate *Haec sancta* — his own election's validity rested on the council's — and he applied *Frequens*, convening Pavia-Siena on schedule in 1423 and designating Basel for the next, which opened in 1431.

Within thirty years it was dead.

## Why it failed

Four causes, and they compound.

**The lottery.** The previous module established, from the structure of the conclave, that an office whose electors are drawn from the same pool as its candidates cannot be constrained by those electors, because every elector is a potential winner of everything the office holds. Conciliarism's natural constituency inside the church was the cardinalate, and the cardinalate was the candidate pool.

The proof is available in a single biography. **Enea Silvio Piccolomini** was at Basel in the 1430s as a partisan of the council, served it as a secretary, and wrote its history. He later entered papal service, was made a cardinal, and in 1458 was elected pope as Pius II. On **18 January 1460** he issued *Execrabilis*, condemning appeals from the pope to a council. Three years afterwards he issued a letter retracting his earlier conciliarist writings, in a formula traditionally quoted as an instruction to reject Aeneas and accept Pius.

The man who had written the history of the constitutional experiment abolished it, from the office it had been designed to constrain, within eighteen months of reaching that office. It is the same mechanism as the conclave capitulation repudiated seven months after it was sworn, operating at a larger scale on a more serious document.

**The expectation lifted.** The reciprocity test predicts precisely this. Conciliarism was conceded when every party expected to lose. By 1450 there was one pope, universally recognised, and no claimant had any reason to fear ending up on the wrong

side of a papal judgement. The imagining that had made the concession thinkable had simply stopped.

From which the test's failure condition can be stated, and this is the module's contribution to it: **a protection granted under a credible expectation of loss survives the lifting of that expectation only if, in the interval, it acquires a constituency whose interest in it is independent of the original fear.** Conciliarism had roughly a generation to do that and did not manage it.

**It was not published.** The acts of the Council of Constance were not made public until 1442 — twenty-seven years after *Haec sancta* — and then at the instance of the Council of Basel, which needed them; they were not printed until 1500. A constitution that most of the people it governs have never read, in an institution where the executive controls the archive, is not doing the work a constitution does. The reason ceremony matters in the founding of any order is that it produces common knowledge: everybody sees everybody else seeing. An unpublished decree produces the opposite.

**And the constituency that might have carried it was bought.** This is the decisive cause and it comes straight out of the previous module. Conciliarism's real external support was never the cardinals; it was the secular powers, who found an appellate body standing above the pope extremely convenient. They were paid off. At Bologna on 18 August 1516, in exchange for the right to nominate to every significant benefice in his kingdom, **Francis I of France agreed that the pope is not subject to a council.**

The constitutional principle was not defeated in argument. It was traded for personnel.

## The words of the foreclosure

*Execrabilis* is worth reading, because the argument it makes is not the one people assume.

> *Execrabilis, et pristinis temporibus inauditus tempestate nostra inolevit abusus, ut a Romano Pontifice, Jesu Christi Vicario... nonnulli spiritu rebellionis imbuti, non sanioris cupiditate judicii, sed commissi evasione peccati, ad futurum Concilium provocare praesumant... quis non illud ridiculum judicaverit, quod ad id appellatur quod nusquam est, neque scitur quando futurum sit?*
> *An execrable abuse, unheard of in former times, has grown up in our day: that certain persons, imbued with the spirit of rebellion, presume to appeal from the Roman Pontiff, the Vicar of Jesus Christ, to a future council — not from any desire for sounder judgement, but to escape the punishment of an offence committed... Who would not judge it ridiculous, that appeal should be made to a thing which is nowhere, and of which nobody knows when it will exist?*

Notice what Pius does **not** say. He does not say a council lacks authority. He does not argue the theology of *Haec sancta*. He says that the body appealed to **does not presently exist**, and that an appeal to a non-existent forum is void on its face.

That is a jurisdictional argument, not a doctrinal one, and it is precisely the move a sovereign makes when he wishes to close a court without arguing about the law that court applies. The council's authority is left formally untouched and made practically unreachable, because *Frequens* had already fallen into disuse and the pope alone could summon one. The penalty attached is anathema, reserved to the pope himself for absolution and only at the point of death, and it runs against persons of imperial, royal and even papal dignity.

And then the afterlife, which is the point of the whole module.

When Leo X condemned Luther, he cited *Execrabilis* by name. Luther had appealed to a future general council — the ordinary, available, entirely respectable procedure that a European Christian with a grievance against a papal ruling had used for a century — and Leo replied that under the constitutions of Pius II and Julius II all who appeal in that way are to be punished with the penalties of heretics.

**The closure of the forum in 1460 is what made 1517 a schism instead of a case.**

That deserves to stand as the module's central finding about foreclosure. A grievance with an appellate route available is litigation: it goes into a process, the process takes years, positions moderate, most of it ends in a compromise nobody remembers. The identical grievance with the route closed has only one remaining form, and that form is exit. Luther did not begin by proposing a separate church. He began by proposing a disputation and then appealing to a council, which is what a man does who believes he is inside a system with a remedy in it. He was told there was no such remedy, and by whom, and under penalty.

**An authority that closes the last appeal against itself has not won the argument. It has chosen the form the argument will take next.**

## The lost liberty

Which brings this module to the thing that is almost never counted.

For something like four centuries, an ordinary person in Latin Christendom — not a prince, not a bishop, an ordinary litigant with an ordinary case — could appeal out of his own kingdom, to a tribunal his own king did not control and could not staff. The right was used heavily and almost entirely in unglamorous matters: marriages, wills, benefices, defamation, contested debts, the endless small business of a large legal system. It cost money and took time and was frequently abused. It existed.

There has been very little like it since, and it is worth being exact about what made it valuable. **It was not that Rome was just. It was that Rome was elsewhere.** An external forum limits a domestic sovereign whether or not the forum is virtuous, because its existence means the sovereign is not the last word — and a sovereign who is not the last word must behave differently from one who is. The protection is a structural consequence of separateness, not a reward for the second tribunal's good character.

It was destroyed in the sixteenth century, and destroyed by the documents that are remembered as expanding liberty. In England the Act in Restraint of Appeals of 1533 abolished appeals to Rome outright, its preamble declaring the realm an empire owing obedience to no superior — the operative significance of which is not constitutional poetry but the plain statement that there is no longer anywhere to appeal to. In France, Bologna had already restricted appeals in 1516. Everywhere the Reformation went, it went together with the closure of external appeal, because a national church has by definition no forum outside the nation.

So the accounting has two columns and they are usually collapsed into one. The sixteenth century unquestionably expanded some liberties: it broke a monopoly of interpretation, put scripture into vernaculars, and ended a licensing regime over the press in large parts of Europe. In the same statutes, and by the same acts, **it carried out the largest single contraction of the right of appeal in European history**, converting every subject's last resort from a tribunal abroad into a tribunal his own sovereign appointed.

The discipline of this collection requires both entries. The forum that protected the litigant in a marriage case was the same forum that laid interdicts on whole populations and ran the tribunals of the inquisition. Nothing about the second cancels the first, and nothing about the first excuses the second. **The value of a second jurisdiction to a subject has never depended on the second jurisdiction being good. It depends on its being separate.**

## Reading plurality against the framework

Six findings.

**Protections are artefacts of jurisdictional competition, not of benevolence.** Sanctuary, benefit of clergy, the ecclesiastical forum and external appeal all exist because two apparatuses were limiting each other in their own interests, and the subject stood in the gap. The diagnostic question is therefore not *who granted this liberty* but **which two powers were fighting when it appeared, and what were they actually fighting**

**about** — because the answer is almost never rights, and the protection is almost always a by-product.

**Liberties travel as portable instruments, and the instrument outlives the faction.** *Quod omnes tangit* began as a rule about terminating joint guardianships in 531, was taken up by cathedral canons seeking leverage against their bishops, entered papal legislation, crossed into English common law through Bracton, and was quoted by Edward I summoning Parliament in 1295. No step in that chain was taken for liberty's sake. **Look for the tag, not the principle:** what survives a factional fight is a short quotable formula with prestigious authority behind it, available to be picked up by anyone in another century who finds himself outside a decision and wants in.

**The reciprocity test holds, and its failure condition can now be stated.** Conciliarism was conceded at exactly the moment when every claimant had a credible expectation of not winning, and it died when that expectation lifted. So: **a protection granted under a credible expectation of loss survives the lifting of that expectation only if it acquires, in the interval, a constituency whose interest in it is independent of the original fear.** Conciliarism had a generation, and failed on three counts — its natural internal constituency were candidates for the office it constrained; its founding decrees went unpublished for twenty-seven years; and the external powers who valued it were bought out in benefices.

**The constitutional impossibility is confirmed in a biography.** The previous module predicted from structure alone that conciliarism must fail, because electors drawn from the candidate pool cannot constrain the office. The confirmation is Enea Silvio Piccolomini: partisan and historian of the Council of Basel, elected pope in 1458, issuing *Execrabilis* in January 1460 and retracting his own conciliarist writings in 1463. The pattern is identical to the conclave capitulation repudiated seven months after it was sworn, and it suggests the general rule is robust: **written constraints on an office are worth what the constrainers' permanent exclusion from that office is worth, and nothing more.**

**Closing a forum converts litigation into secession.** *Execrabilis* did not refute conciliarism; it declared the tribunal non-existent and appeals to it void, which is a jurisdictional move and not a doctrinal one. Fifty-seven years later Leo X cited that bull against a friar who had appealed to a future council in the entirely ordinary way. **An authority that closes the last appeal against itself has not ended the dispute; it has selected the form the dispute will take next**, and the available forms after litigation are exit and force.

**And lost liberties must be counted, which requires counting jurisdictions and not only rights.** The right of an ordinary subject to appeal out of his own kingdom to

a tribunal his sovereign did not control was real, was used, and was abolished by the same sixteenth-century statutes recorded as advances in liberty. Its worth never rested on the external tribunal's virtue, only on its separateness. **When assessing liberty across a transition, count the forums as well as the freedoms:** a right enforceable only in a court the sovereign appoints is a materially different possession from the same right enforceable somewhere he cannot reach, and a transition that multiplies rights while collapsing the number of jurisdictions may be a net loss that no list of rights will reveal.

## A note on sources.

Quoted exactly, in the original Latin with a translation of my own: the opening of *Execrabilis*, the bull of Pius II dated at Mantua on 18 January 1460, as reproduced in the online editions of the Latin text. Quoted in a published English translation: the operative clause of *Haec sancta synodus*, promulgated at the fifth session of the Council of Constance on 6 April 1415, in the standard modern rendering used across the reference literature; and the Latin of *Codex Justinianus* 5.59.5, dated 1 September 531, as quoted in the scholarly literature on the maxim.

Paraphrased and credited to standard reference works and modern scholarship: the course of the Western Schism from 1378, the Council of Pisa of 1409 and its result; the objection of a number of cardinals and of the French delegation to the stronger form of *Haec sancta*; the decree *Frequens* of 9 October 1417 and its schedule of five, seven and then ten years; the election of Martin V on 11 November 1417, his bull *Inter cunctas* of 22 February 1418, and his convocation of Pavia-Siena in 1423 and designation of Basel; the non-publication of the acts of Constance until 1442 and their printing in 1500; the career of Enea Silvio Piccolomini at Basel and his election as Pius II in 1458; the terms and penalties of *Execrabilis*; Leo X's citation of *Execrabilis* against Luther's appeal to a future council; the transmission of *quod omnes tangit* from Justinian's Code through the post-Gratian canonists to the bishop-and-chapter relationship, into papal legislation from Innocent III, into English law via Bracton, and into Edward I's writ of 1295, together with Frederick II's use of it in 1244; the Concordat of Bologna of 18 August 1516 and Francis I's acceptance that the pope is not subject to a council; and the abolition of appeals to Rome by the English statute of 1533.

Flags, four of them.

The formula in which Pius II is said to have retracted his conciliarist writings — instructing readers to reject Aeneas and accept Pius — is **traditionally quoted and widely repeated, and I have not verified its wording against the 1463 letter in this**

**session.** It is reported here as traditionally quoted rather than asserted as his words. The retraction itself is not in doubt.

The wording of the preamble to the English Act in Restraint of Appeals is famous and I have **paraphrased rather than quoted it**, not having checked it against the statute in this session; the paraphrase states only what the Act did, which is not in dispute.

The status of *Haec sancta* is a live and genuinely contested question in Catholic theology and in the historical literature — whether it was a dogmatic definition, a constitutional enactment valid only for the emergency that produced it, or invalid altogether for having been passed before the council was convoked by an undisputed pope. **This module takes no position on any of that**, and its argument does not require one: what it needs is only that the decree was passed, was acted on, and was subsequently foreclosed, all of which is common ground.

And the last would embarrass a tidier argument. This module has treated the closure of the forum as the hinge that turned Luther's grievance from a case into a schism. That is a real mechanism and the citation of *Execrabilis* against him is documented. It is nevertheless a claim about a counterfactual — that an available appellate route would have produced litigation rather than secession — and counterfactuals cannot be verified. The Council of Trent, when it eventually met, did not conciliate the Protestants either, which is at least some evidence that a council convened earlier might have failed in the same way. The finding should be held as a structural proposition about what closing a forum does in general, and not as a confident account of what would have happened in Germany in 1518.

MODULE 10

# Nineteen Dead at the Porta Pia

*Change and collapse — why eleven hundred years ended in a three-hour bombardment, how the definition of infallibility fell sixty-four days before the state, and why the loss of the territory was the saving of the office*

## The proposition being tested

The collection's account of how orders change is uncomfortable and holds up. Structural change does not rise from the base. A durable order is an armed settlement, and an armed settlement is alterable only by people who command organised force, which the common man does not. A rising against an intact apparatus is crushed with a regularity approaching a law. Change comes when the floor of force itself cracks, and it cracks in four ways: the elite **fractures** and one faction arms the people against the other; it **exhausts** its floor in great-power war and must pay the survivors; it is **conquered** by a rival elite and remade at bayonet point; or it **overbreeds**, seating fewer claimants than it produces, until its surplus turns revolutionary and leads the crowd as fuel. In every case the common man is present at the opening — as soldier, as crowd, as the weight one broken faction swings — and is never the author.

The peasant in the Romagna, the weaver in Bologna, the carter in the Trastevere did not end the Papal States. That is the claim, and this module tests it against a case where the arrangement was not merely a local settlement but the source from which every king in Latin Christendom and every baron under him had once derived his title.

It also does something to the thesis, because this order has a peculiarity the four cracks do not anticipate: **its floor was never its own.** So the question cannot be asked in the usual form. One has to ask whose floor cracked, and the answer turns out to be a floor four hundred miles away belonging to a party with no interest in the case.

## The rising that lost

Begin with the counter-example, because the case contains a clean one.

In November 1848 Pius IX fled Rome for Gaeta. In February 1849 a Roman Republic was proclaimed, with Mazzini among its triumvirs and Garibaldi commanding its forces. It abolished the temporal power, declared religious freedom, and governed the city for some months.

It was destroyed by a French army — sent by a French republic, at the request of a pope, to restore a monarchy it had no particular affection for — and the French garrison that arrived in 1849 stayed in Rome, in one form or another, for twenty-one years.

Two things in that episode confirm the change thesis exactly. The first is the leadership: Mazzini was a lawyer's son and a professional exile, Garibaldi a professional soldier. The republic was made by a counter-elite of educated men with nowhere to rise inside the existing arrangement — precisely the pattern the collection finds under every movement conducted in the people's name. The Roman poor were the numbers. They were not the authors.

The second is more interesting and belongs to this case alone. **The floor that crushed the rising was rented.** The papal army could not have retaken Rome. What restored the temporal power in 1849 was an expeditionary force from another country, doing a favour, for reasons of French domestic politics that had nothing to do with the Patrimony of St Peter.

## The first repricing

The next change was not a rising either. It was a war between hierarchies, and the Papal States were incidental to it.

In 1859 Piedmont and France fought Austria in northern Italy. The Romagna took the opportunity and was annexed. In September 1860 a Piedmontese army entered the Marches and Umbria; the papal forces — commanded by Lamoricière, a French general, and composed largely of foreign volunteers — were beaten at Castelfidardo on 18 September, and Ancona fell eleven days later.

Two-thirds of the territory was gone inside a fortnight, taken by a regular army in a conventional campaign, with no significant popular component and no possibility of resistance.

What remained was Lazio, and it remained for exactly one reason: there was a French garrison in Rome. From 1860 the Papal States existed at the discretion of one man in Paris. That is not a metaphor. It is the operative fact of the last decade of the temporal power, and everybody involved knew it.

## The refusal to reprice

The change thesis allows that pressure from below is a real cause even when it is never the proximate agent: a credible threat raises the standing cost of an arrangement

and can force a cornered elite to widen the settlement rather than fight on. So the question is whether this apex, cornered, repriced.

It did not, and it said so formally. On 8 December 1864 Pius IX issued the encyclical *Quanta cura* with an appended *Syllabus* of eighty condemned propositions, drawn from his own earlier statements. The document is much misread and should be described precisely: it is a list of propositions declared erroneous, not a programme, and several of the entries condemn positions in the specific forms in which particular writers had advanced them. But the last of the eighty is unmistakable in any reading, and it condemns the proposition that the Roman Pontiff can and ought to reconcile himself with progress, liberalism and modern civilisation.

That was published while the state survived on a foreign garrison. Whatever else it was, it was a formal refusal to widen the settlement at the moment when widening it was the only alternative to depending entirely on somebody else's army.

## Sixty-four days

The end is best given as a calendar, because the calendar is the argument.

**8 December 1869.** The First Vatican Council opens in Rome.

**13 July 1870.** A preliminary vote is taken on the fourth chapter of the constitution on the church. Of 601 voting, 451 are in favour, 62 in favour with conditions, and 88 against. The minority are then permitted to leave, and others leave besides — some in protest, some because a European war is now obviously imminent.

**18 July 1870.** *Pastor Aeternus* is promulgated, defining both the universal ordinary jurisdiction of the Roman pontiff over the whole church and his infallibility when defining doctrine *ex cathedra*. Two bishops vote against: Riccio of Cajazzo and Fitzgerald of Little Rock, Arkansas. **The near-unanimity was manufactured by departure, not by conversion** — roughly a quarter of the council had gone home.

**19 July 1870.** France declares war on Prussia.

**Early August 1870.** Napoleon III recalls the garrison from Rome. He needs the men in France, and he is also afraid that their continued presence will give Italy a pretext to enter the war on Prussia's side, as Italy had done against Austria in 1866.

**1–2 September 1870.** At Sedan the Army of Châlons is destroyed. A hundred and four thousand men pass into German captivity. The Emperor of the French is a prisoner.

**4 September 1870.** The Empire falls; a republic is proclaimed in Paris. The new government has neither the means nor the will to protect the pope's position, and within days the Prussians are marching on Paris.

**8–11 September 1870.** Victor Emmanuel sends Ponza di San Martino to Pius IX with a letter proposing a peaceful entry. It is refused. An Italian force of some fifty thousand crosses the frontier. The papal army numbers 13,157, a large part of it foreign volunteers.

**19 September 1870.** The Aurelian walls are invested.

**20 September 1870.** After a bombardment of about three hours a breach is opened near the Porta Pia and the Bersaglieri enter the city. **Forty-nine Italian soldiers and nineteen papal soldiers are killed.** An act of capitulation is signed. A white flag is raised over St Peter's.

**2 October 1870.** A plebiscite is held, under occupation, and returns an overwhelming majority for union with Italy.

**20 October 1870.** The First Vatican Council is suspended. It never reconvenes. It is formally closed in 1960.

Sixty-four days separate the definition of papal infallibility from the breach in the wall.

## Which crack was it

Test the collapse against the four and the answer is clarifying, including in what it rules out.

**It was not fracture.** No faction of the papal elite armed anybody against another. The eighty-eight who voted against the definition went home; a small schism followed in Germany and Switzerland among the Old Catholics; nobody took up weapons. The cardinals did not split, and the curia did not divide. Whatever else the previous module's finding about the lottery explains, it explains this too: an elite drawn from the pool of candidates for the top office does not fracture easily, because each member's route to the top runs through the institution's integrity.

**It was not overproduction**, and this case cannot exhibit it. The fourth crack requires an elite that seats fewer claimants than it breeds, producing a surplus of frustrated heirs who turn revolutionary and lead the crowd. **An order whose officers cannot have sons has no heirs to fail to seat.** There is no reservoir of disappointed second sons, no crowd of educated nephews with nowhere to go — or rather, there were nephews, but the previous modules have shown they were placed rather than frustrated, and after 1692 the pressure was legislated against rather than allowed to accumulate.

That is worth recording as a structural fact rather than an aside, because it completes the account of what the celibacy rule did to this order across the whole study. It made the settlement almost impossible to construct. It made formation free to extend to

everybody. It made the office impossible to constrain from within, because the constrainers were the candidates. And it made the order **immune to the commonest engine of revolution in the historical record.**

**It was not a rising.** Rome did not rise in 1870. There was public enthusiasm, and there had been agitation for years, and the plebiscite of 2 October returned a crushing majority. But the plebiscite was held after the occupation, by the occupying power, to legitimate a completed act — which makes it evidence about acquiescence, not about causation. The Romans did not take Rome. A Piedmontese corps of fifty thousand took Rome, in three hours, at a cost of sixty-eight dead on both sides together.

**It was conquest** — the third crack — and the decisive question, as always with conquest, is not anybody's will but whose army stood where.

## The loaned floor comes due

But conquest of a particular kind, and here the case adds something to the change thesis rather than merely confirming it.

The founding module established that this order's force was never its own. In 756 the floor was Frankish, supplied by a king who took nothing and went home; thereafter it was Norman, imperial, Angevin, Spanish, Austrian, French, in a long series of arrangements in which somebody else's soldiers held the ground and the papacy paid in warrants, dispensations, alliances and absolution. **An order with a borrowed floor must borrow it again every time it is needed**, from a lender under no continuing obligation whose successor was never party to the original bargain.

In 1870 the lender was France, and France's floor was broken at Sedan — by Prussia, which had no claim on Rome, no interest in the Papal States, and no view about the temporal power one way or the other. Prussia was not a party to the case. Prussia had never been a party to the case.

**The Papal States fell because of a battle fought four hundred miles away between two powers who were not arguing about them.**

State the addition plainly, because the change thesis's four cracks all assume that the floor in question belongs to the order in question:

**Where the floor is loaned, the order's survival is a function of a variable outside its territory, outside its observation, and entirely outside its influence — and it collapses when the lender's floor cracks, for reasons that need have nothing to do with it at all.**

Two consequences follow and both are practical.

The first is about warning. A borrower cannot read his own risk from his own conditions. Rome in June 1870 presented every appearance of stability: an ecumenical

council in session, a garrison in place, an army of thirteen thousand, a functioning administration, a papal treasury, no insurrection. Nothing observable inside the Papal States forecast September. The relevant leading indicator was a telegram from Ems about a Hohenzollern candidature for the Spanish throne. **An order on a loaned floor must watch a country it does not govern for events it cannot influence, and the collapse, when it arrives, will look sudden and be inexplicable from inside.**

The second is about the shape of the ending. Where a floor is genuinely the order's own, its cracking is usually visible in advance — mutiny, arrears of pay, desertion, a lost campaign. A loaned floor does not crack. It is simply **withdrawn**, in good order, by a lender attending to his own business. There is no warning phase because there is no decay: the garrison is present, disciplined and effective until the day it marches away.

## Enough resistance

One deliberate act sits at the centre of 20 September and it is a legal act rather than a military one.

Pius IX would not permit the city to be surrendered until his troops had put up enough resistance to establish that it had been taken by force. The commander, Kanzler, was to capitulate as soon as a practicable breach was made — enough to prevent a massacre, and enough to place the violence on the record.

**Nineteen men were killed in order to produce a fact.** The fact was that Rome had been taken and not given, and it was worth what it cost, in the pope's judgement, because the whole of his subsequent position depended on it.

Read that against the founding, where the collection's finding was that transfers are habitually dressed as something other than takings — a donation, a restoration, an emperor withdrawing on grounds of fitness, a right of St Peter that nobody ever grounded. Here the head of the same institution does the exact reverse. He insists that the taking be visible, and stages it, because he intends to spend the remainder of his life denying that any lawful transfer occurred.

The strategy was executed consistently for fifty-nine years. Italy passed the **Law of Guarantees on 13 May 1871**, a unilateral statute conferring on the pope personal inviolability, the use of the Vatican and the Lateran, diplomatic rights, and an annual payment. Pius IX rejected it and refused the money. A statute is something a parliament can amend or repeal; a treaty is something two parties make; accepting terms under a domestic statute would have converted a conquest into a settlement and extinguished the claim. Catholics were directed to abstain from Italian national elections under the formula *non expedit*. The popes did not leave the Vatican precincts,

and the phrase "the prisoner in the Vatican" was not a metaphor about their state of mind but a description of a legal posture maintained by physical means.

It paid off on **11 February 1929**, when the Lateran Treaty gave, by bilateral agreement between two sovereigns, substantially what the Law of Guarantees had offered by domestic statute — with the addition of recognised sovereignty over a territory, however small, and financial compensation for what had been taken.

Which yields a finding worth carrying: **a defeated party that refuses to accept terms preserves the legal question, and a preserved question is an asset with no carrying cost to anyone except the generation that refuses.** Pius IX and his three successors paid the whole price. The pope who collected was Pius XI.

## What the loss did

And now the largest single finding in this study, which the whole of it has been moving toward.

The collection's studies of authorisation converged on a proposition that reads like a warning: **the soundness of a source of title is inversely related to its capacity to enforce, and a source of title that acquires the means of enforcement converts itself into a claimant and forfeits the immunity that made it useful to everybody.** The Landscape put that on the record as a prediction and said it was the thing to watch. This study has then followed the acquisition — an estate, a province, a state, an army, an alum monopoly, a funded debt — for eleven hundred years.

In 1870 the acquisition was reversed, completely and against the institution's will.

What followed was not decline. Within a generation the papacy exercised more effective authority over Catholics worldwide than at any time since the thirteenth century. There was no territory to garrison, no army to pay, no border to defend, no alliance to manage, no subjects with grievances about the salt tax, no province to lose in somebody else's war. The two definitions of *Pastor Aeternus* — universal ordinary jurisdiction and infallibility — were now exercised over a global church by an office with nothing left to be taken.

The causation must be stated carefully and not overdrawn. The definitions were not designed as a replacement for the state: the council had been in preparation since 1864, and the men who voted on 18 July were not planning for a defeat that most of them did not expect. What can be said is structural rather than intentional. **The two claims were substitutes**, and the institution's weight shifted from one to the other inside a single quarter of a single year — and the claim it kept turned out to be the one that had always been load-bearing.

The institution eventually said so itself, which is the best evidence available. On 20 September 1970, the centenary of the breach, Paul VI sent his cardinal vicar for Rome to the Porta Pia to mark the **providential** significance of the loss of the temporal power.

That is not a pious gloss on a humiliation. It is an accurate structural judgement delivered a century after the event by the only party in a position to make it.

## Reading change and collapse against the framework

Six findings.

**The change thesis is confirmed without qualification.** No peasant, weaver, carter or urban worker altered this arrangement. The republic of 1849 was made by a counter-elite of exiles and professional soldiers and destroyed by a foreign expeditionary force. The territorial loss of 1860 was inflicted in a fortnight by a regular army. The end in 1870 took three hours and killed sixty-eight men in total. The plebiscite came after the occupation. **A functioning apparatus does not lose to its own population; and when this one lost, it lost to another state's infantry, on a schedule set in Berlin.**

**A transmission path the four cracks do not cover: the loaned floor.** Where an order's force belongs to somebody else, its survival depends on a variable it cannot observe or influence, and it ends when the lender's floor cracks for unrelated reasons. Two operational consequences: such an order cannot read its own risk from its own conditions, and its ending has no decay phase, because a loaned floor is not eroded but withdrawn — present and effective until the morning it leaves.

**Celibacy immunises an order against elite overproduction.** The fourth crack cannot operate where the elite has no heirs to fail to seat. This completes the account of the no-sons rule across the whole study: it made the settlement nearly impossible to construct, made formation free to extend universally, made the office impossible to constrain from within, and removed the commonest engine of revolution in the record. One rule, four consequences, running in different directions.

**Insisting that a taking be visible is the mirror image of the settlement fiction, and it is performed by the losing party.** Nineteen men were killed to establish that Rome had been taken by force rather than surrendered. The winner of a transfer wants it recorded as a cession; the loser wants it recorded as a conquest. **Read the documents of any transfer and ask which party is arguing for the violence to be visible: that party is the one preserving a claim.**

**Refusing terms preserves a legal question cheaply, and the cost falls entirely on the generation that refuses.** Fifty-nine years and four pontificates separate the rejection of the Law of Guarantees from the Lateran Treaty that conceded the form

Pius IX had insisted on. The refusal cost the men who made it everything and cost their successors nothing, which is the standard economics of an unresolved claim and the reason such claims outlive everybody's patience.

**And the central one: losing the capacity to enforce restored the source of title.** The collection predicted that acquiring enforcement converts a source of title into a claimant and destroys the immunity that made it valuable. This case supplies the missing half of the proposition and it should now be stated in full: **the relationship is reversible.** An order stripped of its territory, its revenue, its army and its borders recovered, within a generation, an authority over its own constituency that eleven centuries of acquisition had steadily eroded. The papacy's power over Catholics rose in inverse proportion to its power to compel anybody at all — and a hundred years later the institution sent a cardinal to the breach in the wall to say so.

## A note on sources.

Paraphrased and credited to standard reference works and modern scholarship, which is the whole of this module's evidentiary basis apart from the dates: the Roman Republic of 1849, the flight of Pius IX to Gaeta in November 1848, and the French expedition that restored him; the annexation of the Romagna and the campaign of September 1860, with the defeat at Castelfidardo on 18 September and the fall of Ancona; the encyclical *Quanta cura* and the appended *Syllabus* of 8 December 1864, and the terms of its eightieth proposition; the opening of the First Vatican Council on 8 December 1869; the preliminary vote of 13 July 1870 with 601 voting, 451 in favour, 62 in favour with conditions and 88 against, and the subsequent departure of the minority; the promulgation of *Pastor Aeternus* on 18 July 1870 with two negative votes, from Riccio of Cajazzo and Fitzgerald of Little Rock; the French declaration of war on Prussia on 19 July 1870; the recall of the Roman garrison in early August and its two stated motives; the Battle of Sedan of 1–2 September and the proclamation of the French republic on 4 September; the mission of Ponza di San Martino and its rejection; the Italian advance of 11 September with a force of about fifty thousand against a papal establishment of 13,157; the three-hour bombardment and breach at the Porta Pia on 20 September, with 49 Italian and 19 papal soldiers killed and 132 and 68 wounded respectively; Pius IX's instruction that resistance be offered sufficient to establish that the city was taken by force; the plebiscite of 2 October; the suspension of the council on 20 October and its formal closure in 1960; the Law of Guarantees of 13 May 1871 and its rejection; the *non expedit*; the Lateran Treaty of 11 February 1929; and the sending of Cardinal Dell'Acqua to the Porta Pia by Paul VI on 20 September 1970 to mark the providential significance of the loss of the temporal power.

Figures and discrepancies, three of which matter. **The affirmative vote on *Pastor Aeternus* is given as 433 in some standard accounts and as 533 in others**, and I have not been able to resolve the discrepancy; the two negative votes and the identity of the two bishops are consistent across sources. **The plebiscite figures vary considerably** between accounts — one widely cited set gives roughly 133,000 to 1,500 for Rome and its province, another about 67,000 to 687 — and since the vote was held under military occupation to ratify an accomplished fact, no weight is placed on the margin in either case. **The size of the French garrison** in Rome over the period 1849–1870 is given in the literature at somewhere between five and ten thousand and varied greatly by year.

Flags. The dating of the French declaration of war is given as 19 July on the authority of the French foreign minister's own statement to the legislative body of 20 July 1870, that war had existed since the nineteenth; some timelines give 18 July, and readers should be aware of the variation, which slightly changes the striking juxtaposition with the promulgation of *Pastor Aeternus* on the eighteenth but not the argument.

The *Syllabus of Errors* is one of the most misrepresented documents of the nineteenth century, and this module has described it in the narrowest defensible terms — a list of condemned propositions, several of them condemned in the specific forms in which particular authors had advanced them, rather than a positive programme. Readers who want the controversy should go to it rather than to this study, which uses only the eightieth proposition and uses it only to establish that no repricing was on offer.

And two things that would embarrass a tidier argument. First, the claim that the definitions of 1870 and the temporal sovereignty were **substitutes** is a structural reading and not an intention anyone recorded; the council's preparation long predates the crisis, and no participant is on record planning for the loss of Rome. The reading is mine and is offered as such. Second, this module's account of the collapse as externally caused is strong on the proximate mechanism and weaker on the long run: it explains why the state fell in September 1870 rather than in some other year, but the deeper question — why an Italian national movement existed at all with the strength to absorb the Papal States the moment the garrison left — is not answered here and is not answerable in these terms. The loaned floor explains the timing and the suddenness. It does not explain the Risorgimento.

MODULE 11

# Two Hundred at White Mountain

*The grim accounting — what the sword cost across eleven hundred years, why the dissolution killed incomparably more than the arrangement ever did, and what a formation leaves running after the order that built it has gone*

## Two ledgers and a question

An armed group took power, held it, and eventually lost it. This module asks what that cost, and it keeps two separate accounts because the two run on different mechanisms and almost always come out at different orders of magnitude.

The **sword ledger** records direct violence: the killing done in founding the arrangement, in maintaining it against challenge, and in its ending. It is the column everyone reaches for and it is usually the smaller one.

The **metabolic ledger** records something less visible and generally much larger. An advanced order lifts a population above the level the land would carry without it — through intensive agriculture, stored surplus, transport, relief in bad years, and the restraint of armed men who would otherwise eat the seed corn. That surplus population is a standing debt against the coordination that produced it. Break the coordination and the note is called, and it is paid in famine and epidemic by people who were not parties to any quarrel and mostly never knew what the quarrel was about.

And there is a question underneath both. Enough time passes and people stop knowing that violence made the arrangement at all. It becomes simply the way the world is. This module ends on what was forgotten here, and the answer turns out to be the strongest instance of it in the collection.

## The sword ledger, and its unusual shape

Most orders in this collection are expensive to found and cheaper to keep. This one is the reverse, and the asymmetry is the module's first structural fact.

**The founding was almost bloodless.** Two Frankish campaigns, in 755 and 756: an engagement at the Alpine passes, two sieges of Pavia that ended in negotiation rather than storm, forty hostages, sworn undertakings, and a chaplain riding round twenty-two towns collecting keys. No massacre is recorded on either occasion. The territory

that became the Papal States changed hands with less killing than a moderate provincial rebellion.

**The maintenance was thin and spread very wide.** Across eleven hundred years the temporal state kept no standing army worth the name for most of its existence, fought comparatively few wars of its own, and was repeatedly overrun by other people's armies without much resistance. Its condottieri campaigns in the fifteenth and sixteenth centuries were of a scale ordinary for Italian principalities. The direct violence attributable to the papal state as a state is genuinely small.

Then there are the two items everybody reaches for, and both have to be given accurately rather than usefully, because the anti-clerical tradition has been inflating them since the sixteenth century and the confessional tradition has been minimising them for exactly as long.

## The Albigensian Crusade

From 1209 to 1229 a war of conquest was fought against a Christian population in a Christian province, preached as a crusade, with a plenary indulgence attached, and it was followed by a permanent inquisitorial regime.

The figures are unusable and should be described as such. Chroniclers give the dead at the sack of Béziers in 1209 at somewhere between seven and twenty thousand, and medieval chronicle figures for massacres are unreliable in a known direction. Modern estimates for the whole twenty years range from tens of thousands to a million, and the higher end of that range has no defensible basis and should not be repeated by anybody.

What can be said without a number is exact enough. A substantial region was campaigned over for two decades by armies raised with spiritual privileges, its towns were stormed, its nobility dispossessed, and its independent political order destroyed — after which Languedoc was absorbed into the French crown, which was the war's durable result and had not been its stated purpose.

## The inquisitions, counted properly

Now the correction, and it has to be made plainly, because a study that inflates its figures forfeits the right to be believed anywhere else.

Gustav Henningsen and Jaime Contreras worked through the annual reports made by the Spanish tribunals to the Suprema for the years 1540 to 1700. What they found was **44,674 recorded formal trials, producing 1,604 death sentences — of which 826 were executions in person and 778 were executions in effigy.**

Sit with that distinction, because it is the institution's own bookkeeping and it says something structural. In nearly half of its capital sentences the condemned was absent, dead, or had fled, and a mannequin was burned in the square instead. An apparatus that will burn a dummy is not primarily a machine for killing people. It is a machine for producing public declarations, and the declaration is the product.

Estimates for the whole span of the Spanish Inquisition, from 1478 to its abolition in 1834, cluster in a range: the consensus following Lea and Kamen is three to five thousand executions; García Cárcel calculated 120,000 to 150,000 trials at an execution rate around three and a half per cent, giving 4,200 to 5,250; Dedieu allowed as many as ten thousand, with four-fifths of them in the first three decades, between 1480 and 1510.

**Three hundred and fifty-six years, and the credible range is three to ten thousand.** The figures that produced the popular picture came from Llorente in the early nineteenth century, and were dismissed as arbitrary and exaggerated by Henry Charles Lea in 1906 — a man who devoted four volumes to the institution and was in no sense its friend.

Two further things follow from the shape of the numbers rather than their size. The executions concentrate overwhelmingly in the first generation, against conversos, which means the tribunal that ran for three further centuries was doing something else — censorship, bigamy, blasphemy, solicitation, superstition. And the medieval inquisitions, which are older and worse documented, were smaller operations still.

**None of this is exculpation and it should not be read as any.** Eight hundred and twenty-six people were burned alive in a hundred and sixty years by a tribunal of a church, having been tried by judges who believed they were saving souls. A number is not a defence and a lower number is not an argument. The point of getting it right is that the inflation has been running for four hundred years and has made the subject nearly impossible to discuss, and a study that cannot count cannot be trusted to reason.

## Where the killing actually happened

Which leads to the finding that inverts the popular picture entirely, and it is the most useful thing in this module.

The witch trials killed far more people in Europe than all the inquisitions combined. The scholarly range is on the order of forty to sixty thousand executions across roughly three centuries — an order of magnitude above the Spanish Inquisition's total in a comparable period.

They were overwhelmingly conducted by **secular courts**. And they clustered geographically in the fragmented jurisdictions of the Holy Roman Empire and its

neighbours: hundreds of petty territories, local judges, local pressures, and no appeal to anywhere.

Meanwhile the Spanish Inquisition, from December 1525, operated under formal guidelines that cautioned scepticism about spell accusations, barred the confiscation of the property of anyone condemned for witchcraft, reserved witch cases to itself rather than leaving them to local courts, and directed that the accused be re-educated rather than executed. Witchcraft executions in Spain were rare thereafter. The Roman Inquisition was similarly unenthusiastic.

Read that structurally rather than as an apologia, because it is not one.

**A centralised tribunal with a professional bench, formal rules of evidence, a written procedure, an appellate structure, and no financial stake in convictions restrains local persecution.** Where such a tribunal was absent, the killing was very much worse — because a village accusation in a territory of four thousand souls, tried by a local judge who lives among the accusers and can confiscate the estate of the condemned, has nothing standing between it and a pyre.

This is the earlier finding about external forums restated in bodies rather than in principle. The protection was never that the central tribunal was merciful. It was that it was **elsewhere, professional, and appealable**, and those three properties limit a local persecution whatever the tribunal's own convictions. The people burned in the German territories had nowhere to appeal. The people tried in Spain did, and the appellate body was sceptical about the whole category of offence.

## The metabolic ledger

Now the far larger column, and it does not fall where the sword ledger falls. **The great mortality of this arrangement was not caused by the arrangement. It was caused by the arrangement coming apart.**

The mechanism is worth setting out because it is general and this is its clearest European instance.

A continent-wide order of the kind described in the earlier modules — with intensive agriculture, stored surplus, transport of grain between regions, relief distributed in bad years, and a partial restraint on armed men destroying crops and livestock — carries more people than the same land would carry without it. Those additional people exist because the coordination exists. Remove the coordination and they do not gradually revert to a lower equilibrium; the note is called at once, and it is paid in hunger and in epidemic.

**The Thirty Years War is the largest single payment of that kind in European history**, and the figures should be given as ranges because the sources are parish registers and tax records of varying completeness.

Germany's population around 1600 is put at roughly twenty million. The modern scholarly consensus is a decline of **fifteen to twenty per cent** across the war and the epidemics that followed it — to something like sixteen or seventeen million — with older accounts giving a third and being treated with caution now. Total deaths are usually given as **four and a half to eight million**. The regional variation is extreme: Württemberg lost more than half its people, Brandenburg about half, and some districts as much as two-thirds.

And the composition of those deaths is the whole point. One authoritative estimate puts disease at around **ninety per cent** of war-related mortality, with typhus alone killing more than a tenth of the German population.

The single clearest illustration is a comparison within one army in one year. At the battle of White Mountain, outside Prague in 1620, the imperial army lost something on the order of **two hundred men on the field**. In the same year, typhus killed **more than fourteen thousand imperial troops.**

The transmission is not mysterious and it is exactly metabolic. Armies were maintained by *contribution* — that is, by living off whatever country they happened to be standing in. That practice removes the stored surplus, the seed corn, the draught animals and the working population from a district simultaneously, which is not one blow but four, and the fourth is the one that prevents recovery. Refugees crowd into walled towns, where typhus and dysentery become endemic. Plague travels with soldiers, who move constantly and over long distances. Sieges concentrate everything: at Nuremberg in 1632 the daily death toll from typhus and scurvy inside the lines ran to a hundred a day.

**Almost nobody in that accounting was killed for their religion.** They died because the machinery that had been feeding them was dismantled by armies arguing about who owned the machinery. That is what a metabolic debt looks like when it is called, and it is why the column has to be kept separately: no list of massacres, however complete, would find these people.

The other confessional wars belong in the same column — the French wars of religion across four decades, the Dutch revolt across eight, the wars in the British Isles — and no aggregate is offered here, because none that is offered anywhere is defensible.

## The second metabolic entry

There is a smaller and much better documented instance, and it is worth including precisely because its scale is modest and its mechanism is unambiguous.

The church was the poor-relief system of Latin Europe. Monastic almonries, hospitals, the parish poor-box, the customary allocation of a portion of tithe, the endowed chantries with their obligations to the poor: a decentralised, endowed, uneven, and in many places inadequate apparatus, but the only one there was.

Where the monasteries were dissolved, that apparatus went with them, and something had to be built to replace it. In England the sequence is legible in the statute book. The houses were suppressed between 1536 and 1541. The Crown took the endowments. And then, across the following sixty years, a succession of increasingly serious poor-law statutes culminating in 1598 and 1601 constructed — by compulsory parish rate, overseers, and local administration — a public system to perform the function the endowments had been performing.

**The interval is the debt.** Sixty years in which one relief system had been abolished and the next was still being assembled, during a period of rising population and severe inflation. The vagrancy legislation of the mid-century, with its brutality, is the record of a state discovering that a function it had not been performing was now its problem.

## What the arrangement had carried

Honesty requires the other side of the metabolic ledger, and it is substantial.

The same coordination whose removal called the note had produced the population in the first place. Monastic houses cleared and drained land on a very large scale. Agricultural technique diffused across a continent through a network of houses sharing one language and one rule. The peace movement, whatever its limits, was an attempt by the only institution capable of it to restrain the armed from destroying exactly the crops and animals a metabolic debt is denominated in. The relief apparatus carried people through bad years. And the calendar scheduled the agricultural and commercial year across jurisdictions that shared no ruler and no law.

**A civilisation's coordination is not free, and the population it carries is a hostage to its continuance.** That is the general form of the metabolic finding, and this case demonstrates both halves inside the lifetime of one institution: the lift, across six centuries, and the fall, across thirty years.

## What was forgotten

Which brings this module to the question it opened with.

The obvious forgetting happened long ago and completely. Nobody experiences the Papal States as a Frankish conquest, though that is exactly what they were: a province taken from the Lombards by a foreign king who had taken it from an emperor who never consented, and handed to a dead apostle. The forged prior title was believed for six hundred years and defended for two hundred more after it had been demonstrated false. And the Christianity that an emperor legislated into the state in the fourth century was, by the sixth, not experienced by anybody as an arrangement that had been made.

But the deepest forgetting is not historical. It is current, and everyone reading this is inside it.

**The order is gone and its formation is still running.**

The seven-day week. Sunday. The calendar that dates every contract, invoice, statute and newspaper in the Western world, and the ten days deleted from October 1582 by a bull that Protestant Europe refused for a century and a half and then accepted. The university, with its faculties, its degrees, its lectures, its licence to teach. The rules of civil procedure across most of Europe and Latin America, descended from the Roman-canonical *ordo iudiciarius*. The corporation as a legal person that holds property, sues, and does not die — which arrived in 313 and 321 as a device for letting churches take legacies and is now the basic legal form of the modern economy. The very idea that what touches all should be approved by all, which reached Parliament from a rule about co-guardians by way of a quarrel between bishops and their chapters.

None of it is experienced by anybody now as a political fact. A modern secular European schedules his week by the liturgical calendar of a state that ceased to exist in 1870, incorporates his business under a legal form invented so that a proscribed religious association could inherit property, and would be surprised, and probably a little irritated, to hear either described that way.

**That is what it finally means for a build to become the furniture of reality.** Not that people believe the claims — most of the relevant population no longer believes any of them. It is that the thing has stopped being visible as a thing that was made. The strongest possible evidence that a formation fully took is not that it outlived its critics. It is that it outlived its own order, its own state, its own army and its own belief, and is still setting the date at the top of the page.

## Reading the accounting against the framework

Five findings.

**This case inverts the usual shape of the sword ledger: cheap founding, cheap maintenance, catastrophic dissolution.** Forty hostages at the founding; something between four and eight million dead at the dissolution, with the wars of religion and the Thirty Years War taken together. The general form is worth stating: **where an order binds by belief rather than by force, its violence is back-loaded.** Nothing is spent holding people down while the belief holds, which is why such orders look mild for centuries; everything is spent at once when the belief divides, because a divided belief cannot be policed by the apparatus that never needed a police force. An order that runs cheaply is not a gentle order. It is an order carrying an unbooked liability.

**The metabolic note falls due on the dissolution, not on the arrangement**, and the mechanism is fully legible. Contribution armies remove stored surplus, seed corn, draught animals and labour from a district in a single operation; refugees concentrate; typhus and dysentery become endemic; plague travels with the troops. Two hundred men killed on the field at White Mountain and more than fourteen thousand killed by typhus in the same army in the same year is the entire finding in one comparison, and it is why the metabolic column cannot be reconstructed from any list of battles or massacres.

**The deadliest religious violence in early modern Europe occurred where central ecclesiastical jurisdiction was weakest, not where it was strongest.** Forty to sixty thousand witch executions, overwhelmingly by secular courts, concentrated in fragmented territories with local judges and no appeal — against 826 burnings in person by the Spanish Inquisition across a hundred and sixty years, under guidelines that had been formally sceptical about witchcraft since 1526. **A centralised tribunal with rules of evidence, a professional bench and an appeal restrains local persecution, and its removal is not liberty for the accused.** This is the module on plurality restated in bodies: the value of a distant forum never depended on its virtue, only on its distance and its procedure.

**Count accurately in both directions, particularly when accuracy is inconvenient.** Llorente's inflated figures have shaped the popular understanding for two hundred years and were rejected as arbitrary by the institution's most hostile serious historian in 1906. The corrected figures are not a defence and must not be offered as one — 826 people were burned alive, and the tribunal that burned them also burned 778 effigies, which tells you what it thought it was doing. A study that inflates cannot be trusted to reason, and a study that deflates has stopped being a study.

**And the deepest forgetting is not of the founding violence but of the formation.** An order can vanish entirely and leave its formation running as neutral infrastructure that nobody can see. The test of whether a build has fully naturalised is therefore not whether people still believe its claims, which is a weak test that fails as soon as belief declines. **The strong test is whether the thing can still be seen as a build at all** — and by that test this order's formation is the most successful in the collection, because it survived the destruction of its own state, the collapse of its own belief among most of the population it formed, and a century and a half of hostile scholarship, and it still sets the date at the top of the page.

## A note on sources.

Paraphrased and credited to modern scholarship and standard reference works; this module quotes no primary source, because it is an exercise in counting rather than in reading, and every figure in it is a modern estimate.

**The Thirty Years War.** German population of roughly twenty million around 1600; a modern consensus decline of fifteen to twenty per cent over the war and the ensuing epidemics, against older claims of a third which are now treated with caution; total deaths generally given as four and a half to eight million; more than fifty per cent lost in Württemberg, about half in Brandenburg, up to two-thirds in some districts; the estimate attributed to Joseph Patrick Byrne that disease caused around ninety per cent of war-related deaths and that typhus alone killed more than a tenth of the German population; the roughly two hundred imperial battlefield deaths at White Mountain in 1620 against more than fourteen thousand imperial troops killed by typhus that year; the death rate of about a hundred a day during the Nuremberg operations of 1632; the sack of Magdeburg in 1631, a city of some twenty thousand of whom about two-thirds were killed; and the practice of maintaining armies by contribution. Readers should note that these figures rest on parish registers and tax records of uneven survival, that historians have revised them downward substantially over the past century, and that the revision is still contested.

**The inquisitions.** The Contreras–Henningsen analysis of the *relaciones de causas* for 1540–1700, giving 44,674 recorded formal trials, 1,604 death sentences, 826 executions in person and 778 in effigy; the authors' own caution that the series has gaps and does not constitute complete statistics, and Henningsen's later revision suggesting some 87,000 trials in the period; whole-period estimates from García Cárcel (120,000–150,000 trials, about 3.5 per cent executed, giving 4,200–5,250) and Dedieu (up to 200,000 trials and no more than 10,000 executions, four-fifths of them between 1480 and 1510); the consensus range of three to five thousand executions across 1478–1834

associated with Lea and Kamen; and Lea's 1906 dismissal of Llorente's figures as arbitrary and exaggerated.

**Witchcraft.** The scholarly range of roughly forty to sixty thousand executions in Europe across the period of the trials, their overwhelmingly secular jurisdiction, their concentration in fragmented territories, and the Spanish Inquisition's guidelines of December 1525 cautioning scepticism about spell accusations, barring confiscation of the property of the condemned, reserving witch cases to itself and preferring re-education. The forty-to-sixty-thousand range is the one most commonly given in the modern literature; I have not tested it against the underlying regional studies and it should be treated as an order of magnitude.

**The Albigensian Crusade.** No figure is adopted. Chronicle figures for Béziers in 1209 run from seven to twenty thousand; modern estimates for the whole war run from tens of thousands to a million, and the upper end is stated here only to be rejected.

**Poor relief.** The dissolution of the English monasteries between 1536 and 1541 and the sequence of poor-law statutes culminating in 1598 and 1601 are described from the standard reference literature. **The adequacy of monastic relief before the dissolution is genuinely disputed**, with a substantial body of scholarship holding that it was already declining and insufficient, and this module's claim is only that a function was removed before a replacement existed, not that the earlier system was good.

Two flags on the reasoning rather than the figures. First, **attributing the mortality of the Thirty Years War to the dissolution of this order is a causal claim that runs through a great many intervening variables** — dynastic ambition, the constitutional crisis of the Empire, French policy, the Spanish road, the ordinary logic of great-power competition — and the confessional division was one cause among several rather than the sole cause. What can be defended is narrower: that the confessional division was a necessary condition of the war taking the form it took, and that the metabolic mechanism operated regardless of what the armies believed they were fighting about. Second, **the comparison between witch-trial mortality and inquisitorial mortality is a comparison between different offences, jurisdictions, and centuries**, and it is offered as a structural observation about centralised versus fragmented jurisdiction rather than as a scorecard. A reader who wanted to defeat it could argue that the Inquisitions suppressed the conditions in which witch panics arose for reasons unrelated to procedure, and the argument would deserve a hearing.

MODULE 12

# Other People's Children

*Convergence and divergence — what this order shared with every other in the collection, the single variable that made it singular, what it gives back to the framework, and the strongest case against reading it this way at all*

## What converged

This case was chosen because it looked as though it would break the framework, and the first thing to record is how much of the framework it did not break at all.

**There was always a floor.** The most spiritual order in this collection, the one that governed for centuries with no coercive apparatus worth the name, was founded by an army and ended by an army. A Frankish force took the Exarchate from the Lombards in 756; an Italian force took Rome in 1870. In between, the ground was held by Normans, imperial troops, Angevins, Spaniards, Austrians and French. There is no moment in eleven hundred years at which organised violence was absent from the arrangement. It was simply usually somebody else's.

**The settlement problem was universal even where its ordinary solution was unavailable.** Every durable order must manufacture people who would be worse off if it fell and who therefore hold it up without instruction. This order could not do that in the standard way and had to route around — but it had to do exactly the same job, and everything peculiar about it is a consequence of solving a general problem by an unusual method rather than of escaping the problem.

**Extraction was justified by something older than the institution.** The tithe was defended for a thousand years as divine law instituted by God and not by man, on the authority of a text the church had inherited rather than written. That is the ordinary shape: no order legitimates its own take by pointing at itself.

**Every transfer was described as something other than a taking.** A conveyance from a Frankish conqueror became the *right of Saint Peter*. An emperor's absence from Rome became a decision made on grounds of fitness. A forgery became a prior title. The specific fictions are novel; the practice of dressing a taking as a restoration is not.

**Formation was total, and there was no unformed person.** This case is the collection's control condition on that point rather than an exception to it.

**And change came from the elite side without a single exception.** The Roman Republic of 1849 was made by a counter-elite of exiles and professional soldiers and destroyed by a foreign expeditionary force. The territorial loss of 1860 was inflicted by a regular army in a fortnight. The end in 1870 killed sixty-eight men in three hours and the plebiscite followed the occupation. No peasant, weaver or carter altered this arrangement at any point, and the arrangement had eleven hundred years in which they could have tried.

## What diverged, and it is one variable

Set against that, the divergences are startling — and almost all of them run back to a single rule.

**Nobody in this order could have a son.**

The study began by treating that as an obstacle the order had to overcome. It ended by concluding that it was the organising fact of the entire structure, and that it produced four consequences running in four different directions, which is why the case looks so strange from any single angle.

*It made the settlement nearly impossible to construct internally*, because the standard instrument — heritable title creating a line of defenders — was unavailable. The order routed around by **exporting the settlement**: granting heritable interests in its own land to lay families who could inherit, at fixed rents, retaining the reversion, so that the tenant's title remained permanently derivative of the landlord's and the tenant defended the landlord by defending himself.

*It made formation free to extend to everybody.* A settler order withholds formation because forming people means admitting them and admitting them dilutes a heritable settlement. **An order with no heirs has nothing to dilute**, so it forms universally and recruits from the bottom — and its formation apparatus becomes the largest in the corpus.

*It made the office impossible to constrain from within.* A hereditary aristocracy limits the crown because it will never hold the crown. A College of Cardinals cannot, because every elector is a potential winner of the whole prize. Three centuries of conclave capitulations, every one repudiated by the man who swore it, and a conciliar constitution abolished by a former conciliarist eighteen months after he reached the office it was written to constrain.

*And it made the order immune to elite overproduction* — the commonest engine of revolution in the record — because an elite with no heirs has no surplus of unseated claimants to turn revolutionary.

One rule. Four consequences. They do not point the same way, and no account that treats celibacy as a single fact about sexual discipline will find any of them.

Three further divergences are worth naming as genuinely singular rather than as consequences of the first.

**The closed loop.** In every other case in this collection the source of title and the formation apparatus are different institutions: the caliph never captured the interpretation of the law, which lay with the scholars; a Turkish sultan could found colleges and could not become caliph; a Norman duke could install his own archbishop and could not be pope. The permanent second-best of every ruler under a genuine anchor is that he can only staff the office that reads it aloud. **This institution held both ends** — it issued the warrant and it ran the apparatus that formed the people whose belief made the warrant honoured. That bought immunity from the standard mode of capture and cost a structural collision with every throne in Latin Christendom.

**A loaned floor for eleven hundred years**, which is not merely long but constitutive. An order that never owns its force does not spend its energy on armies; it spends it on relationships, which is why the archive of the founding period is ninety-nine letters.

**And its most dangerous document was its own scripture.** Every other order in the collection suppresses documents belonging to its enemies. This one had to manage, permanently, a text it declared divine, could not amend, and was obliged to recite weekly in every parish — while also holding a second canon that pointed the opposite way on the very question at issue.

## What the study set out to answer

The question was: how does an order bind anybody when nobody in it can have a son?

The answer has five parts and the last is the one the study did not expect.

**The holding problem was solved in 321, before there was anything to hold.** Roman corporate law made the church in each city a legal person capable of taking by will, holding in its own name, and never dying. Four centuries of legacies accumulated into the largest landed estate in the western Mediterranean without one act of inheritance occurring inside the institution. This is the half that gets mistaken for the whole answer, and it is not interesting, because a corporation explains how wealth survives a man and explains nothing about why anyone defends it.

**The binding problem was solved by export**, in the way described above, and the reversion is the load-bearing term. It kept the grantee's title derivative, which is the whole of why the grantee defended the grantor.

**It leaked sideways into nephews** continuously for eleven centuries, until the leak was given a curial office in 1566 and legislated against in 1692 — after which, of eight eighteenth-century popes, only three failed to promote a relative, and two of those three were monks with no family to promote.

**And the scripture supplied the fiscal constitution ready-made.** Numbers 18:24 gives the Levites the tithe *because* they have no inheritance, and says so with a *therefore*. An order that adopted the Hebrew scriptures as the word of God adopted, in the same act, a complete and reasoned apparatus for maintaining a caste excluded from the division of the land. It did not invent an answer. It found one, in the text it was already committed to.

**Then the fifth, which reframes the other four.**

Every hereditary order in the record is limited by fertility. A dynasty seats the sons it produces, no more; a nobility replenishes itself from its own loins and is bounded by them; and every such order faces, sooner or later, either too few heirs to fill the offices or too many to seat, and both failures are lethal.

**An order whose officers cannot reproduce must recruit every single member, in every generation, from other people's children — and is therefore bounded not by its own fertility but by the size of the population it forms.**

That is not a handicap worked around. It is a recruitment system with no ceiling. The Latin church drew, continuously, from the whole of Europe: from artisans, from peasants, from families with nothing, in every province and every generation, selecting on aptitude because there was no incumbent lineage whose expectations had to be respected. A boy in the Abruzzi with a good memory and a quick tongue could become a bishop; on rare and real occasions he could become pope. No hereditary order in this collection had access to more than a fraction of that pool, and none of them could have opened it without destroying the settlement that defined them.

So the correct statement of this study's central result is the inverse of the question it was given. **Celibacy did not create a durability problem that the order solved. It removed a ceiling, and the durability was the consequence.** The order that could have no sons had, in every generation, the pick of everybody's.

## What the case gives back to the framework

Eleven modules produced findings; a handful of them generalise beyond this case and those are the ones worth carrying.

**On foundings.** A coordinating position can be *conferred* rather than captured — the sequence in which a sovereign, unable to perform a function, legislates it onto another body's apparatus, so that the position arrives as an obligation before it arrives as an opportunity. And a floor can be *loaned*: supplied by a party who takes nothing and goes home, which produces an order that must re-borrow its force from a lender under no obligation, spends its political energy on correspondence rather than armies, and eventually collapses when the lender's floor cracks abroad for unrelated reasons.

**On settlements.** An order that cannot make heirs internally can make them externally, provided it retains the reversion. A prohibition on heirs relocates rather than extinguishes the demand for them, and the relocation acquires an office — find the office and you have found where the settlement is really being made. And a benefice is a cost rather than a solution, because a tenure that ends at death and transmits nothing produces a holder whose rational horizon is his own lifespan.

**On robes.** Warrants are addressed either to the ruled or to rival claimants, and the two decay by different routes: the first dies socially and cannot be argued with, the second can be destroyed by a competent reader in an afternoon. A stacked robe is antifragile against document criticism, because textual attack necessarily finds the layer most exposed to textual attack, which is the weakest one. Prescription eats the founding instrument, so there is a window during which a refutation is lethal and after which it is archaeology. And in any forged instrument, **the date of composition and the date of first deployment are two separate pieces of evidence answering two different questions** — three centuries apart, in this case.

**On formation.** Formation is withheld in proportion to the heritability of the settlement it would dilute. A warrant is drawn on formation: the value of an instrument of title is manufactured downstream, in childhood, and flows back to the office that issues it. And where the source of title and the formation apparatus are the same institution, that institution cannot be captured by the ordinary route and is in permanent collision with every temporal power in its field.

**On compliance.** Coercion is the residual — what is left after benefit, belief and the absence of exit have done their work. Belief is not an item in that ledger but the exchange rate at which every other item is priced. Exit need not be geographic, and the decisive form is a competitor arriving in the same territory. And a sanction that must be executed by people the target can reach is not a sanction against the target.

**On extraction.** The sale of exceptions to one's own law is a revenue stream that grows with the strictness of the law. A nominal render is a tenure marker whose value is that it is paid rather than what it amounts to. And the limiting case of extraction against the future is a flow that only the seller can describe and no buyer can verify —

where the absence of a possible complainant removes the last discipline on the quantity that can be issued.

**On information.** A second authority speaking for God does not add a claimant, it voids the currency, which is why a monopoly of interpretation is a monopoly of title-issuance in different clothes. The most efficient answer to a doctrine you cannot refute is to license it — but absorption has a term, and its cost is an internal constituency for the thing absorbed. And the fullest legal statement of a power is often its epitaph rather than its charter.

**On elite coordination.** A derivation chain transmits fragility downward, which manufactures defenders among people with no interest in the doctrine and every interest in their deeds. Constitutional constraint requires a constraining body permanently excluded from the office it constrains. And **extraction and the default are in direct tension, with the tension scaling with the endowment**: an order that accumulates property under a title only it can issue is building, in the same act, the prize for its own elite's defection.

**On liberty.** Protections are artefacts of jurisdictional competition rather than of benevolence — ask which two powers were fighting when the protection appeared. Liberties travel as portable instruments and the instrument outlives every faction that carries it. A protection granted under a credible expectation of losing power survives the lifting of that expectation only if it acquires an independent constituency in the interval. Closing a forum converts litigation into secession. And when assessing liberty across a transition, **count the forums as well as the freedoms.**

**On change and cost.** Where an order binds by belief rather than force, its violence is back-loaded: nothing is spent while the belief holds and everything at once when it divides. The metabolic note falls due on the dissolution rather than on the arrangement. The deadliest persecution occurs where central jurisdiction is weakest, not where it is strongest. And the strong test of whether a build has naturalised is not whether people still believe its claims but **whether the thing can still be seen as a build at all.**

**And the one that closes the sequence.** The collection's studies of authorisation established that the soundness of a source of title is inversely related to its capacity to enforce, and that a source of title acquiring the means of enforcement converts itself into a claimant. This study followed that acquisition for eleven hundred years and then watched it reverse. **The relationship is symmetrical.** Stripped of territory, revenue, army and borders in 1870, the office recovered within a generation an authority over its own constituency that eleven centuries of accumulation had steadily eroded — and a

century later the institution sent a cardinal to the breach in the wall to describe the loss as providential.

## The counter-position

Now the case against this entire study, stated at its full strength, because a study that has not met its best objection has not finished.

It is not the objection that the papacy was better than this account allows. That is a quarrel about weighting and the weighting can be argued. The serious objection is a great deal harder, and it goes to whether the method has any jurisdiction here at all.

**It runs like this.**

Everything in these twelve modules describes machinery. A floor of force. A settlement that manufactures defenders. A formation apparatus that installs a framework in children. A compliance subsidy. An exported settlement, a manufactured heir, a stacked robe, an extraction against a flow that cannot be audited. Every one of these is a description of how a *mechanism* operated.

But a man kneeling in a parish church in Picardy in 1240 was not operating a mechanism. He was praying. A woman who forgave a neighbour who had wronged her, because she had been taught from infancy that she must, was not receiving a compliance subsidy; she was forgiving her neighbour, and the neighbourhood was better for it. A Cistercian draining a marsh in 1150 was draining a marsh. And the account offered here — which can explain the tithe, the benefice, the interdict, the alum monopoly and the indulgence with some precision — cannot explain why a wealthy merchant of Lyon gave away everything he had in 1173, or why a wealthy merchant's son in Assisi did the same thing thirty-six years later, or why a man who had proved the founding deed a forgery ended his life inside the institution he had wounded, holding a benefice in the basilica the deed purported to convey.

The objection's sharpest form is not that the method is unkind. It is that **the method's own best findings are parasitic on a sincerity it has no way of representing.**

Consider the founding. This study's most distinctive result about 756 is that the consideration for the floor was absolution — *pro amore beati Petri et venia delictorum* — an instrument that cost the issuer nothing, could not be repossessed, and was worth precisely nothing to anyone outside the belief, which is why the eastern emperor could not outbid it with treasure. That finding is *only true if the belief was real*. If Pepin was cynical, he took an army over the Alps twice, in successive years, and came home with forty hostages and a title, for nothing. The whole analysis of the founding rests on the sincerity of a man the method cannot see inside.

And the same dependency runs everywhere. Belief is the exchange rate; a warrant is drawn on formation; the sanction bites in proportion to the conviction of the person it lands on. The framework's account of this order is load-bearing on a thing the framework declares out of scope.

That is the objection, and it is a good one.

## The answer

Three parts, and the third is a concession.

**First: the objection is right about what the method cannot see and wrong about what follows from that.**

This study has never claimed that the doctrine was false, that the belief was manufactured in the sense of being fabricated, or that the people inside it were deceived. The collection's own discipline says the opposite and says it in terms: a built thing that has become real is more genuine and more durable than a lie, because a lie must be maintained and a naturalised order need not. That is not a courtesy extended to a sensitive subject. It is a structural claim, and it is the reason this order lasted eleven hundred years while orders running on fabrications lasted decades. **Naming the build is not debunking it.** A cathedral is a built thing. Saying so is not an argument against going in.

**Second: the findings are not in competition with the belief. They are in competition with the institution's account of its own history.**

Take them one at a time. The *Constitutum Constantini* was a forgery — that is a claim about a document, not about God. The tithe was made legally compulsory by a Frankish capitulary in 779 rather than by any papal act — that is a claim about the statute book, not about the Levites. The exported settlement manufactured defenders with heritable interests in church land — that is a claim about conveyancing, not about grace. Indulgences for the dead created a market with no possible complainant — that is a claim about the structure of a transaction, and a Christian may hold it while believing every word of the doctrine of purgatory.

Every finding in this study is about temporal machinery, and every one of them is compatible with the doctrine being true. What none of them is compatible with is the institution's own historical account of how it came to hold central Italy, and that account has been indefensible since 1440 by the institution's own eventual admission.

**Third: the sincerity is not outside the model. It is the model's largest variable, and the study has been measuring it from the first page.**

The objection says the method cannot represent belief. But the method's central finding about this case is that **belief is the exchange rate at which everything else is**

**priced** — that the identical instrument was devastating in 1208 and inert in 1606 while nothing about the instrument changed; that the founding consideration worked *because* it was not a trick and no rival could counterfeit it; that this was the least garrisoned order in the collection relative to what it governed, because it had almost nothing to enforce with and did not need it. Far from writing sincerity out, the study's results are unintelligible without it. The dependency the objection identifies is real. It is not a flaw in the account. **It is the account.**

## The concession

And then the part that must not be argued away.

There is one thing the objection is simply right about, and it is not recoverable by any refinement of method.

**This study can read institutions. It cannot read a person.** It can tell you what an apparatus did, what it cost, whom it bound and how, and it can do that with some confidence over eleven centuries. It cannot tell you what it was like to be inside it, and it has no instrument that would register the thing that most of the people in this story would have said was the only thing that mattered. Nothing in twelve modules explains why Valla, having demolished the deed, chose to die inside the house. Nothing in them explains Francis. Nothing in them will ever explain the person who is not doing anything a structural account can see, because he is praying, and praying is not a move in a game the method knows how to score.

The correct form of a structural study's humility is not to hedge its findings, which would be false modesty and would make it useless. It is to state its jurisdiction plainly. **This study's jurisdiction ends at the parish door.** Everything on this side of it — the estate, the statute, the forgery, the concordat, the ledger — it has tried to describe accurately. Everything on the other side is outside its competence, was outside it from the beginning, and is not diminished by having been left alone.

## The balance

Which leaves the accounting, and the collection's rule is that both columns are entered at their true size and neither is used to cancel the other.

**What it built.** Every copy of the Bible in Europe before printing, and the schools that taught the language it was written in. The universities, with their charters, faculties and degrees. The hospitals, the almonries, the poor-relief system that was the only one there was and that a state had to spend sixty years replacing. The law of persons — the corporation that outlives its members, which arrived in 313 so that a proscribed sect

could inherit and is now the basic legal form of the world economy. The rules of procedure by which most of Europe and Latin America still tries a case. The calendar, correct to within days over four centuries, that dates every contract on earth. The Peace of God, in which an institution with no soldiers used its only instrument to restrain the armed on behalf of the unarmed, and named in its decrees the ass and not the horse because it knew which one a poor man owned. An external forum in which an ordinary litigant could appeal out of his own kingdom against his own sovereign's courts, which no one in Europe has had since. And, for a very large number of people across a very long time, in lives that afforded almost none, the only consolation available.

**What it cost.** A compulsory tenth on subsistence, enforceable in its own courts, with no exemption for poverty. A settlement in which the man who worked the land had no rights in either direction and appears in the instruments only as an appurtenance. Twenty years of war against a Christian province, with an indulgence attached. Eight hundred and twenty-six people burned alive in a hundred and sixty years by one tribunal, and seven hundred and seventy-eight effigies burned beside them. A monopoly of interpretation asserted by a general council in terms that reached to readings a man never intended to publish. A market in relief for the dead, priced by a schedule, sold to the living, drawn on a fund no buyer could audit. Jews confined, badged and expelled. And at the end a dissolution that called a metabolic note paid in famine and typhus by somewhere between four and eight million people, almost none of whom had ever been consulted about anything.

Both columns are true. Neither is a rebuttal of the other, and an account that reaches for one to dispose of the other has stopped doing history and started doing advocacy.

**Legibility is not pardon.** It is also not indictment. It is the attempt to say what an order was, in full, including to the people who had the least say in it — and then to stop, at the door, where the method's competence ends and something else begins that this study has no business describing.

## Reading the whole against the framework

Four closing findings.

**The framework survived a case designed to break it, and the three assumptions that were supposed to fail did not fail in the way expected.** Settlements do not require heritable title; they require *institutional* holdings, and heritability is merely the commonest way of achieving that — which this case proves by supplying a different way and running it for eleven hundred years. A robe need not be borrowed from a

currency the audience already honours: it can be borrowed from a currency the order itself minted, provided the order also controls the formation that makes the currency honoured, which is the closed loop. And a founding document need not be load-bearing at all after prescription has matured, which is why one could be publicly disproved in 1440 and the order run another four hundred and thirty years.

**Celibacy is not a constraint but a recruitment system.** An order whose officers cannot reproduce is bounded not by its own fertility but by the population it forms, and can therefore select on aptitude from everybody's children in every generation without diluting an incumbent line, because there is no incumbent line. This is the study's central result, it inverts the question it was given, and it should be tested next against the other non-heritable elites in the record — the Mamluks, the janissaries, the eunuch administrations — to see whether the same ceiling-removal appears where celibacy does not.

**And the sequence's proposition on sources of title is now complete in both directions.** Acquiring the means of enforcement converts a source of title into a claimant and destroys the immunity that made it valuable; losing them restores it. The papacy's authority over its own constituency has varied inversely with its capacity to compel anybody, across the whole eleven hundred years, and the clearest single datum is that the office was at its most effective in the century after it lost everything.

**The last belongs to the method rather than the case.** This study has been able to describe an order's machinery in detail while remaining silent about the thing the order existed for, and the silence is not a gap to be filled by a better framework. Some subjects have two accounts that are both true and do not reduce to one another. The discipline is to give the account you can give as well as you can give it, mark the boundary where it stops, and refuse the temptation — which is strong, and which the whole shape of a structural analysis invites — to treat the part you can see as the part that was real.

## A note on sources.

This module quotes no primary source and cites no new evidence. Everything in it rests on the eleven modules preceding it and on the notes on sources attached to each of them, where the primary texts, the paraphrased scholarship, the contested figures and the flags are set out at the point of use. Readers checking a claim made here should go to the module where it was established.

Three things are said in this module that were not established in the earlier ones and should be marked as such.

**The finding about recruitment — that celibacy functions as a ceiling-removal on selection rather than as a constraint on durability — is a synthesis made in this**

**module** and is not a result reported in the historical literature. It follows from the material in the modules on settlement and on formation, but the inference is mine, it is the single most load-bearing claim in the study, and it has not been tested against the comparative cases named. A reader who wanted to attack this study should attack there.

**The claim that the framework's three threatened assumptions failed in unexpected ways rather than simply failing** is likewise an assessment rather than a finding, and other readings of the same material are available; in particular, a reader could reasonably conclude that the assumption about heritable settlements did fail outright and that the exported settlement is a different mechanism wearing the same name.

**And the comparison between this order and the other cases in the collection rests on those studies rather than on independent research conducted here.** Where this module says that no other case in the corpus combines the source of title with the formation apparatus, that is a statement about the collection as it currently stands, made from its own findings, and it would be defeated by a single counter-example from a case not yet run.

One thing that would embarrass the argument, stated last because it should not be buried. This study has treated the order's temporal machinery as its subject and has repeatedly said that its findings are compatible with the doctrine being true. That is honest as far as it goes. But a reader inside the tradition may fairly object that an eleven-hundred-year account of an institution which mentions its doctrine mainly as a variable in other people's compliance calculations has, by its selection, made a claim about proportion even while disclaiming a claim about truth — and that proportion is a kind of argument. The objection is sound. The only defence is the one offered above: that this is a study of an order and not of a faith, that the boundary has been stated rather than smuggled, and that a reader who wants the other account should not look for it here.